DRAFT AGREEMENT IN RESPECT OF GIBRALTAR BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE ONE PART, AND THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY, OF THE OTHER PART

THE EUROPEAN UNION AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, IN RESPECT OF GIBRALTAR

1. REAFFIRMING their commitment to democratic principles, the rule of law, human rights, countering proliferation of weapons of mass destruction and to the fight against climate change, which constitute essential elements of this and supplementing agreements,

2. RECOGNISING the importance of global cooperation to address issues of shared interest,

3. NOTING that the United Kingdom withdrew from the European Union and that Gibraltar is not included in the territorial scope of the Trade and Cooperation Agreements concluded between the European Union and the European Atomic Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, done at London and Brussels on 30 December 2020,

4. SEEKING to establish a new mutually cooperative relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland, in respect of Gibraltar ("the Parties"), which also promotes shared prosperity and close and constructive relations in respect of Gibraltar and the adjacent area in the Kingdom of Spain, in particular the territory of the municipalities that make up the Mancomunidad de Municipios del Campo de Gibraltar,

5. CONSIDERING that, in order to ensure the efficient implementation and correct interpretation and application of this Agreement and any supplementing agreements, as well as compliance with the obligations under those agreements, it is essential to establish rules for governance, in particular dispute settlement and enforcement rules,

6. CONSIDERING that all current physical barriers to the circulation of persons between Gibraltar and the Schengen area should be removed, while preserving the integrity of the Schengen area through appropriate controls, measures and safeguards, and taking into account that Gibraltar does not participate in and is not associated to the Schengen acquis,

7. CONSIDERING that, to strengthen the security of the Parties, the removal of physical barriers to the circulation of persons and the controls, measures and safeguards established should be complemented by cooperation between the Parties relating to the prevention, investigation, detection or prosecution of criminal offences and to the execution of criminal penalties, including the safeguarding against and prevention of threats to public security,

8. REAFFIRMING, given the geographical proximity between the Parties, the commitment to cooperate to prevent and combat money laundering and terrorist financing as well as tax evasion and tax avoidance, and to ensure the implementation of international standards of good governance in the tax area,

9. RECOGNISING the need for a balanced economic partnership to be underpinned by a level playing field for open and fair competition and sustainable development, through effective frameworks for state aid control and a commitment to uphold the Parties' respective high levels of protection in the areas of labour and social standards, environment, the fight against climate change, and taxation,

10. CONSIDERING that all physical barriers to the movement of goods by land between Gibraltar and the Union should be removed, while protecting the integrity of the Union's Single Market and the Parties' financial interests, including by:

- ensuring the fight against customs fraud through appropriate customs controls and procedures as well as other measures;

- providing for cooperation mechanisms between the Parties and safeguards, equally preventing and combating tax fraud, evasion and avoidance;

- applying relevant Union rules governing the movement, production and placing on the market of goods, including

Prohibitions and Restrictions and market access rules,

11. SEEKING, given the geographical proximity between the Parties, to cooperate in civil nuclear safety and security matters,

12. CONSIDERING the importance of ensuring road transport for passengers and goods between Gibraltar and a limited contiguous frontier zone in the territory of the Union, and road transport of goods between Gibraltar and the United Kingdom through the territory of the European Union, as well as certain access to the ports of the Parties,

13. SEEKING to establish rules applicable to Gibraltar airport and its operation,

14. SEEKING to establish clear rules and close and effective cooperation between the competent institutions of the Kingdom of Spain and Gibraltar to protect and provide quick and under optimum conditions to ensure the rights of frontier workers moving between the Kingdom of Spain and Gibraltar to work and corresponding coordination of social security rights, as well as ensuring the rights for their family members,

15. RECOGNISING the importance of a financial mechanism to promote cohesion between Gibraltar and the Campo de Gibraltar, while protecting the Parties' financial interests,

16. DESIRING that an agreement be concluded between the United Kingdom, in respect of Gibraltar, and the Union to provide a legal base for such cooperation,

17. ACKNOWLEDGING that the Parties may supplement this Agreement with other agreements forming an integral part of their overall bilateral relations as governed by this Agreement,

HAVE AGREED AS FOLLOWS:

Part ONE. COMMON AND INSTITUTIONAL PROVISIONS

Title I. GENERAL PROVISIONS

Article 1. Purpose

The objective of this Agreement is to establish a mutually cooperative relationship between the Parties, which also promotes shared prosperity and close and constructive relations in respect of Gibraltar and the adjacent area in the Kingdom of Spain, in particular the territory of the municipalities that make up the Mancomunidad de Municipios del Campo de Gibraltar.

Article 2. Sovereignty

This Agreement, any supplementing agreements as referred to in Article 3, any administrative arrangements or other arrangements related to this Agreement, and any measures or instruments or conduct taken in application or as a result thereof, or pursuant thereto, shall be without prejudice to, and shall not otherwise affect the respective legal positions of the United Kingdom of Great Britain and Northern Ireland or of the Kingdom of Spain with regard to sovereignty and jurisdiction, and shall not constitute the basis for any assertion or denial of sovereignty including in legal proceedings or otherwise.

Article 3. Definitions

1. For the purposes of this Agreement and any supplementing agreement, and unless otherwise specified, the following definitions apply:

"Party" or "Parties" means the European Union and the United Kingdom, in respect of Gibraltar;

a "Party's law" or "the Parties' laws" means, with reference to the United Kingdom, in respect of Gibraltar, the laws applicable in Gibraltar, unless specifically provided otherwise;

"data subject" means an identified or identifiable natural person; an identifiable person being a person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data or an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

"day" means a calendar day;

"Member State" means a Member State of the European Union;

"personal data" means any information relating to a data subject;

"Contiguous frontier zone" means the municipalities that make up the Mancomunidad de Municipios del Campo de Gibraltar, in the Kingdom of Spain.

2. Any reference to the "Union" in this Agreement or any supplementing agreement shall be understood as including the European Atomic Energy Community, unless otherwise specified or where the context otherwise requires.

3. Any reference to the "United Kingdom" in this Agreement or any supplementing agreement shall be understood as referring to the United Kingdom as the State being responsible for the external relations of Gibraltar.

Article 4. Supplementing Agreements

1. Where the Union and the United Kingdom conclude other bilateral agreements between them in respect of Gibraltar, such agreements shall constitute supplementing agreements to this Agreement unless otherwise provided for in those agreements. Such supplementing agreements shall be an integral part of the overall bilateral relations between the Union and the United Kingdom, in respect of Gibraltar, as governed by this Agreement and shall form part of the overall framework.

2. Paragraph 1 also applies to:

(a) agreements between the Union and its Member States, of the one part, and the United Kingdom, in respect of Gibraltar, of the other part;

(b) agreements between the European Atomic Energy Community, of the one part, and the United Kingdom, in respect of Gibraltar, of the other part.

Article 5. Good Faith

1. The Parties shall, in full mutual respect and good faith, assist each other in carrying out tasks that flow from this Agreement and any supplementing agreement.

2. They shall take all appropriate measures, whether general or particular, to ensure the fulfilment of the obligations arising from this Agreement and from any supplementing agreement, and shall refrain from any measures which could jeopardise the attainment of the objectives of this Agreement or any supplementing agreement.

Article 6. Communications and Notifications

1. Formal communications and decisions to be notified, made by or addressed to the Gibraltar competent authorities, shall be transmitted through the Foreign, Commonwealth and Development Office of the Government of the United Kingdom (hereinafter, "the FCDO"), or such other United Kingdom body, both based in the United Kingdom, as the Government of the United Kingdom may decide to appoint.

2. The FCDO shall certify as authentic documents issued by the competent authorities of Gibraltar where decisions are to be directly enforced before a court or other enforcement authority in a Member State without the need of a formal previous notification.

3. The notification by the United Kingdom of competent authorities in Gibraltar pursuant to this Agreement or any supplementing agreement shall also include reference to the FCDO or other United Kingdom body referred to in paragraph 2.

Article 7. Removal of Physical Barriers

All physical barriers shall be removed in accordance with the implementation plan contained in the relevant administrative arrangement between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain.

Title II. BASIS FOR COOPERATION

Article 8. Democracy, Rule of Law and Human Rights

1. The Parties shall continue to uphold the shared values and principles of democracy, the rule of law, and respect for human rights, which underpin their domestic and international policies. In that regard, the Parties reaffirm their respect for the Universal Declaration of Human Rights and the international human rights treaties to which they are parties.

2. The Parties shall promote such shared values and principles in international forums. The Parties shall cooperate in promoting those values and principles, including with or in third countries.

Article 9. Fight Against Climate Change

1. The Parties consider that climate change represents an existential threat to humanity and reiterate their commitment to strengthening the global response to this threat. The fight against human-caused climate change as elaborated in the United Nations Framework Convention on Climate Change ("UNFCCC") process, and in particular in the Paris Agreement adopted by the Conference of the Parties to the United Nations Framework Convention on Climate Change at its 21st session (the "Paris Agreement"), inspires the domestic and external policies of the Union and the United Kingdom. Accordingly, each Party shall respect the Paris Agreement and the process set up by the UNFCCC and refrain from acts or omissions that would materially defeat the object and purpose of the Paris Agreement.

2. The Parties shall advocate for the fight against climate change in international forums, including by engaging with other countries and regions to increase their level of ambition in the reduction of greenhouse emissions.

Article 10. Countering Proliferation of Weapons of Mass Destruction

1. The Parties consider that the proliferation of weapons of mass destruction ("WMD") and their means of delivery, to both state and non-state actors, represents one of the most serious threats to international stability and security. The Parties therefore agree to cooperate and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery through full compliance with and national implementation of their existing obligations under international disarmament and non-proliferation treaties.

2. The Parties agree furthermore to cooperate on and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery by:

(a) taking steps to sign, ratify, or accede to, as appropriate, and fully implement all other relevant international instruments to the extent that those instruments are open to signature, ratification or accession by the Parties; and

(b) establishing an effective system of national export controls, controlling the export as well as transit of WMD-related goods, including a WMD end-use control on dual use technologies and containing effective sanctions for breaches of export controls.

3. The Parties agree to establish a regular dialogue on those matters.

Article 11. Small Arms and Light Weapons and other Conventional Weapons

1. The Parties recognise that the illicit manufacture, transfer and circulation of small arms and light weapons ("SALW"), including their ammunition, their excessive accumulation, their poor management, inadequately secured stockpiles and their uncontrolled spread continue to pose a serious threat to peace and international security.

2. The Parties agree to observe and fully implement their respective obligations in the case of the United Kingdom, as extended to Gibraltar, to deal with the illicit trade in SALW, including their ammunition, under existing international agreements and UN Security Council resolutions, as well as their respective commitments within the framework of other international instruments applicable in this area, such as the UN Programme of Action to prevent, combat and eradicate the illicit trade in SALW in all its aspects.

3. The Parties recognise the importance of domestic control systems for the transfer of conventional arms in line with existing international standards. The Parties recognise the importance of applying such controls in a responsible manner, as a contribution to international and regional peace, security and stability, and to the reduction of human suffering, as well as to the prevention of diversion of conventional weapons.

4. The Parties undertake, in that regard, to cooperate with each other within the framework of the Arms Trade Treaty, including in promoting the universalisation and full implementation of that Treaty by all UN member states.

5. The Parties therefore undertake to cooperate in their efforts to regulate or improve the regulation of international trade in conventional arms and to prevent, combat and eradicate the illicit trade in arms. The Parties shall take steps to sign, ratify,

or accede to, as appropriate, and fully implement the international instruments listed in Annex 1, to the extent that those instruments are open to signature, ratification or accession by the Parties.

6. The Parties agree to establish a regular dialogue on those matters.

Article 12. The Most Serious Crimes of Concern to the International Community

1. The Parties reaffirm that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation, including with the International Criminal Court. The Parties agree to fully support the universality and integrity of the Rome Statute of the International Criminal Court and related instruments.

2. The Parties agree to establish a regular dialogue on those matters.

Article 13. Counter-terrorism

1. The Parties shall cooperate at the bilateral, regional and international levels to prevent and combat acts of terrorism in all its forms and manifestations in accordance with international law, including, where applicable, international counterterrorism-related agreements, international humanitarian law and international human rights law, as well as in accordance with the principles of the Charter of the United Nations. The Parties shall take steps to sign, ratify, or accede to, as appropriate, and fully implement the international instruments listed in Annex 2 to the extent that those instruments are open to signature, ratification or accession by the Parties.

2. The Parties shall enhance cooperation on counter-terrorism, including preventing and countering violent extremism and the financing of terrorism, with the aim of advancing their common security interests, taking into account the United Nations Global Counter-Terrorism Strategy and relevant United Nations Security Council resolutions, without prejudice to law enforcement and judicial cooperation in criminal matters and intelligence exchanges.

3. The Parties agree to establish a regular dialogue on those matters. This dialogue will, inter alia, aim to promote and facilitate:

(a) the sharing of assessments on the terrorist threat;

(b) the exchange of best practices and expertise on counter terrorism;

(c) operational cooperation and exchange of information; and

(d) exchanges on cooperation in the framework of multilateral organisations.

Article 14. Personal Data Protection

1. This Article applies to the protection of natural persons in relation to their personal data when processed wholly or partly by automated means, or other than by automated means when they form part of a filing system or are intended to form part of a filing system (hereinafter "data protection").

2. Annex 3 shall form an integral part of this Article. This Annex shall not include the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council (1) governing the competence and role of the lead supervisory authority and the supervisory authority concerned.

(1) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ EU L 119, 4.5.2016, p. 1, ELI:).

3. Article 19 shall apply to Annex 3.

4. Without prejudice to Article 20, the provisions of the United Kingdom, in respect of Gibraltar, referred to in paragraph 1 of Article 18 in the area covered by Annex 3 shall be interpreted in accordance with the relevant acts of the European Data Protection Board (hereinafter "the Board") in the same manner and under the same conditions as they apply to the Member States. This includes the opinions that the data protection supervisory authority of the United Kingdom, in respect of Gibraltar, requests or receives pursuant to Article 64 of Regulation (EU) 2016/679, with respect to rules applicable to the United Kingdom, in respect of Gibraltar, that are the same as the rules contained in Annex 3.

5. The data protection supervisory authority of the United Kingdom, in respect of Gibraltar, shall take utmost account of decisions taken by the competent supervisory authority pursuant to Article 60 of Regulation (EU) 2016/679 and decisions taken by the Board pursuant to Article 65 of Regulation (EU) 2016/679, when deciding on cases raising similar questions of interpretation and application of the same rules as those contained in Regulation (EU) 2016/679.

6. The reference to Member States in Article 68(3) of Regulation (EU) 2016/679 shall not be read as including the United Kingdom, in respect of Gibraltar. The data protection supervisory authority of the United Kingdom, in respect of Gibraltar, may be invited to meetings of the Board only in cases where decisions addressed to that supervisory authority are discussed or the presence of that supervisory authority is necessary and in the interest of the Union to ensure the effective application of the same rules as the Union acts in the area of data protection referred to in paragraph 1 of Article 18 in Gibraltar. In such cases, the data protection supervisory authority of the United Kingdom, in respect of Gibraltar shall participate as an expert or guest pursuant to the relevant Rules of procedure of the Board. Its participation shall be strictly limited to the relevant agenda points and it shall be referred to in the relevant documents, such as the minutes of the meeting, as the supervisory authority of the United Kingdom, in respect of Gibraltar.

7. For the purposes of this Agreement, all references to third countries and their competent authorities contained in the provisions of Union law listed in Annex 3 shall be understood as not including the United Kingdom, in respect of Gibraltar, and its competent authorities provided paragraph 2 is complied with in accordance with paragraph 1 of Article 19.

8. Whenever the Union intends to adopt an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 or Article 36 of Directive (EU) 2016/680 of the European Parliament and of the Council (1), the United Kingdom, in respect of Gibraltar, shall be kept duly informed.

(1) Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ EU L 119, 4.5.2016, p. 89, ELI: http://data.europa.eu/eli/dir/2016/680/oj).

Article 15. Global Cooperation on Issues of Shared Economic, Environmental and Social Interest

1. The Parties recognise the importance of global cooperation to address issues of shared economic, environmental and social interest. Where it is in their mutual interest, they shall promote multilateral solutions to common problems.

2. While preserving their decision-making autonomy, and without prejudice to other provisions of this Agreement or any supplementing agreement, the Parties shall endeavour to cooperate on current and emerging global issues of common interest such as peace and security, climate change, sustainable development, cross-border pollution, environmental protection, digitalisation, public health and consumer protection, taxation, financial stability, and free and fair trade and investment. To that end, they shall endeavour to maintain a constant and effective dialogue and to coordinate their positions in multilateral organisations and forums in which the Parties participate, such as the United Nations, the Group of Seven (G-7) and the Group of Twenty (G-20), the Organisation for Economic Co-operation and Development, the International Monetary Fund, the World Bank and the World Trade Organization.

Article 16. Essential Elements

1. Paragraph 1 of Article 8, paragraph 1 of Article 9 and paragraph 1 of Article 10 constitute essential elements of the cooperation established by this Agreement and any supplementing agreement.

2. If either Party considers that there has been a serious and substantial failure by the other Party to fulfil any of the obligations that are described as essential elements in paragraph 1, it may decide to terminate or suspend the operation of this Agreement or any supplementing agreement in whole or in part.

3. Before doing so, the Party invoking the application of this Article shall request that the Cooperation Council meet immediately with a view to seeking a timely and mutually agreeable solution. If no mutually agreeable solution is found within 30 days from the date of the request to the Cooperation Council, the Party may take the measures referred to in paragraph 2.

4. The measures referred to in paragraph 2 shall be in full respect of international law and shall be proportionate. Priority shall be given to the measures which least disturb the functioning of this Agreement and of any supplementing agreements.

5. The Parties consider that, for a situation to constitute a serious and substantial failure to fulfil any of the obligations described as essential elements in paragraph 1, its gravity and nature would have to be of an exceptional sort that threatens peace and security or that has international repercussions. For greater certainty, an act or omission which materially defeats the object and purpose of the Paris Agreement shall always be considered as a serious and substantial failure for the purposes of this Article.

Title III. CIVIL NUCLEAR COOPERATION

Article 17. Civil Nuclear Cooperation

1. The Parties acknowledge the importance of international cooperation for effective nuclear safety arrangements and shall work together on the continuous improvement of international nuclear safety standards and Conventions, and of their implementation. Insofar as it does not conflict with developments in legally binding international nuclear safety standards, the United Kingdom, in respect of Gibraltar, and the Union shall not weaken or reduce the levels of protection below those provided for by the standards of protection, and by the enforcement thereof, shared by the Parties and applied in respect of Gibraltar until 31 December 2020 in relation to nuclear safety, radiation protection, safe management of radioactive waste and spent fuel, decommissioning, safe shipment of nuclear material, emergency preparedness and response, and effective control of radioactive material and radioactive sources.

2. The United Kingdom, in respect of Gibraltar, shall implement a robust and effective system of nuclear material accountancy and control aiming to ensure that nuclear material (as defined in Article XII of the Statute of the International Atomic Energy Agency) is exclusively used for peaceful purposes at such time as these arrangements are required.

3. The United Kingdom, in respect of Gibraltar, shall implement safety and security arrangements, in accordance with relevant international agreements, in relation to any relevant civil nuclear facilities and radioactive sources in Gibraltar, at such time as these arrangements are required.

4. The United Kingdom, in respect of Gibraltar, shall implement, at such time as these arrangements are required, an agreement negotiated with the IAEA for the application of safeguards in Gibraltar, and shall take steps to sign, ratify or accede to, as appropriate, and fully implement the international instruments listed in Part 1 of Annex 4 as well as, where relevant, their future amendments to the extent they are ratified by the United Kingdom. Furthermore, the United Kingdom, in respect of Gibraltar, shall take steps to follow, as appropriate, the guidance documents listed in Part 2 of Annex 4 as well as their future amendments to the extent they are used by the United Kingdom.

5. The Parties acknowledge the importance of international cooperation for effective nuclear security arrangements and shall work together on the continuous improvement of international nuclear security standards and conventions. The Union and the United Kingdom, in respect of Gibraltar, shall not weaken or reduce the levels of protection below those provided for by the standards of protection, and by the enforcement thereof, applied by the Union and the United Kingdom, in respect of Gibraltar, until 31 December 2020 in relation to physical protection.

6. The United Kingdom has extended application of the Convention on Third Party Liability in the Field of Nuclear Energy concluded at Paris on 29 July 1960, as amended by the Additional Protocol of 28 January 1964 and the Protocol of 6 November 1982 to Gibraltar. The Parties note that the United Kingdom will continue to take steps to extend the Protocol of 12 February 2004 (which came into force on 1 January 2022 in the United Kingdom) as well as any further amendments, unless a Party has notified the other Party in writing that it does not accept the amendment.

7. The United Kingdom, on behalf of Gibraltar, shall continue to maintain and periodically review operational arrangements in relation to events in, or affecting, Gibraltar, the Convention on the Early Notification of a Nuclear Accident adopted by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on 26 September 1986 and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency adopted by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on 26 September 1986, should such an event occur. These operational arrangements are detailed in Annex 5 and their updates shall be notified to the other Party as soon as possible, but not later than 3 months after their entry into effect, and Annex 5 shall be amended accordingly.

8. With respect to the effective control of radioactive material and radioactive sources, the United Kingdom, in respect of Gibraltar, shall ensure at least equivalent effectiveness and coverage as that provided under both Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods and Council Directive 2013/59/Euratom of 5 December 2013, laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, including as amended or replaced in future.

Title IV. PRINCIPLES OF INTERPRETATIONS AND DEFINITIONS

Article 18. Public International Law

1. The provisions of this Agreement and any supplementing agreement shall be interpreted in good faith in accordance with their ordinary meaning in their context and in light of the object and purpose of the agreement in accordance with customary rules of interpretation of public international law, including those codified in the Vienna Convention on the Law of Treaties, done at Vienna on 23 May 1969.

2. For greater certainty, except as provided for in paragraphs 1 and 4 of Article 19 and in Article 20, neither this Agreement nor any supplementing agreement establishes an obligation to interpret their provisions in accordance with the domestic law of either Party.

3. Without prejudice to Article 20, for greater certainty, an interpretation of this Agreement or any supplementing agreement given by the courts of either Party shall not be binding on the courts of the other Party.

Article 19. Union Law Applicable by the United Kingdom, In Respect of Gibraltar

1. The United Kingdom, in respect of Gibraltar, shall have in place in its domestic law, and effectively apply, the same provisions as those contained:

(a) in the Union acts listed in the provisions or in those Annexes to this Agreement to which this Article applies, or

(b) under the conditions laid down in paragraphs 2 to 4, in a subsequent Union act, namely:

(i) a Union act amending or replacing a Union act as referred to in subparagraph (a);

(ii) a Union act supplementing or implementing a Union act as referred to in subparagraph (a); or

(iii) another Union act on the subject matter of a Union act as referred to in subparagraph (a).

2. Where the Union adopts a subsequent Union act, it shall immediately notify the United Kingdom, in respect of Gibraltar, of the adoption of such act.

3. Within thirty days of the notification referred to in paragraph 2, the United Kingdom, in respect of Gibraltar, shall notify the Union of its decision whether to accept the content of, and to implement into its domestic law, the subsequent Union act. The acceptance by the United Kingdom, in respect of Gibraltar, of the content of a subsequent Union act shall create rights and obligations between the United Kingdom, in respect of Gibraltar, and the Union.

4. If the implementation into domestic law of the subsequent Union act requires the fulfilment of constitutional requirements, the United Kingdom, in respect of Gibraltar, shall inform the Union of this at the time of the notification referred to in paragraph 3. The United Kingdom, in respect of Gibraltar, shall promptly inform the Union in writing upon fulfilment of all constitutional requirements. From the entry into force of the subsequent Union act and until the information upon fulfilment of constitutional requirements, the United Kingdom, in respect of Gibraltar, shall provisionally apply, to the largest extent possible, the same rules as those contained in the subsequent Union act.

5. If the United Kingdom, in respect of Gibraltar:

(a) notifies its decision not to accept the content of a subsequent Union act; or

(b) does not make a notification within the time limit set out in paragraph 3; or

(c) does not inform the Union, at the latest six weeks after the entry into force of a subsequent Union act, of the implementation of that act into its domestic law

this Agreement shall be considered terminated unless the Cooperation Council, after a careful examination of ways to continue the Agreement, decides otherwise within ninety days. Termination of this Agreement shall take effect three months after the expiry of the ninety days period.

Article 20. Consistent Interpretation

The provisions referred to in paragraph 1 of Article 19 shall be interpreted and applied in accordance with the methods and general principles of Union law and shall in their implementation and application be interpreted in conformity with the relevant case law of the Court of Justice of the European Union.

Article 21. Private Rights

1. Without prejudice to paragraphs 1 and 2 of Article 19, Article SSC.70 and Titles I and II of Part Four, and with the exception, with regard to the Union, of Title V of Part Two, nothing in this Agreement or any supplementing agreement shall be construed as conferring rights or imposing obligations on persons other than those created between the Parties under public international law, nor as permitting this Agreement or any supplementing agreement to be directly invoked in the domestic legal systems of the Parties.

2. A Party shall not provide for a right of action under its law against the other Party on the ground that the other Party has acted in breach of this Agreement or any supplementing agreement.

Article 22. Cooperation Council

1. A Cooperation Council is hereby established. It shall comprise representatives of the Union, and of the United Kingdom, in respect of Gibraltar. The Cooperation Council may meet in different configurations depending on the matters under discussion.

2. The Cooperation Council shall be co-chaired by a Member of the European Commission and a representative of the Government of the United Kingdom at ministerial level. It shall meet at the request of the Union or the United Kingdom, in respect of Gibraltar, and, in any event, at least once a year, and shall set its meeting schedule and its agenda by mutual consent.

3. The Cooperation Council shall oversee the attainment of the objectives of this Agreement and any supplementing agreement. It shall supervise and facilitate the implementation and application of this Agreement and of any supplementing agreement. Each Party may refer to the Cooperation Council any issue relating to the implementation, application and interpretation of this Agreement or of any supplementing agreement.

4. The Cooperation Council shall have the power to:

(a) adopt decisions in respect of all matters where this Agreement or any supplementing agreement so provides;

(b) make recommendations to the Parties regarding the implementation and application of this Agreement or of any supplementing agreement;

(c) adopt, by decision, amendments to this Agreement or to any supplementing agreement in the cases provided for in this Agreement or in any supplementing agreement;

(d) except in relation to Title IV of Part One, until the end of the fourth year following the entry into force of this Agreement, adopt decisions amending this Agreement or any supplementing agreement, provided that such amendments are necessary to correct errors, or to address omissions or other deficiencies;

(e) discuss any matter related to the areas covered by this Agreement or by any supplementing agreement;

(f) delegate certain of its powers to a Specialised Committee, except those powers and responsibilities referred to in point (g) of this paragraph;

(g) by decision, establish Specialised Committees and assign tasks to them, dissolve any Specialised Committee, or change the tasks assigned to them.

5. The work of the Cooperation Council shall be governed by the rules of procedure set out in Annex 6. The Cooperation Council may amend that Annex.

Article 23. Specialised Committees

1. The following Specialised Committees are hereby established:

(a) the Specialised Committee on Circulation of Persons;

(b) the Specialised Committee on Economy and Trade;

(c) the Specialised Committee on Aviation.

2. With respect to issues related to their area of competence, Specialised Committees shall have the power to:

(a) monitor and review the implementation and ensure the proper functioning of this Agreement or any supplementing agreement;

(b) assist the Cooperation Council in the performance of its tasks and, in particular, report to the Cooperation Council and carry out any task assigned to them by it;

(c) adopt decisions and recommendations in respect of all matters for which the Cooperation Council has delegated its powers to a Specialised Committee in accordance with point (f) of paragraph 1 of Article 22 or where the Agreement so provides;

(d) discuss technical issues arising from the implementation of this Agreement or any supplementing agreement;

(e) provide a forum for the Parties to exchange information, discuss best practices and share implementation experience.

3. The Specialised Committees shall be informed as necessary of the implementation of the administrative arrangements concluded by the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain on matters relating to the implementation of this Agreement.

4. Specialised Committees shall comprise representatives of each Party. Each Party shall ensure that its representatives on the Specialised Committees have the appropriate expertise with respect to the issues under discussion.

5. The Specialised Committees shall be co-chaired by a representative of the Union and a representative of the United Kingdom, in respect of Gibraltar.

6. Unless otherwise provided for in this Agreement, or unless the co-chairs decide otherwise, they shall meet at least once a year.

7. Specialised Committees shall set their meeting schedule and agenda by mutual consent.

8. The work of the Specialised Committees shall be governed by the rules of procedure set out in Annex 6.

9. By way of derogation from paragraph 8, a Specialised Committee may adopt and subsequently amend its own rules that shall govern its work.

Article 24. Decisions and Recommendations

1. The decisions adopted by the Cooperation Council, or, as the case may be, by a Specialised Committee, shall be binding on the Parties and on all the bodies set up under this Agreement and under any supplementing agreement, including the arbitration tribunal referred to in Title I of Part Six. Recommendations shall have no binding force.

2. The Cooperation Council or, as the case may be, a Specialised Committee, shall adopt decisions and make recommendations by mutual consent.

Part TWO. CIRCULATION OF PERSONS

Title I. GENERAL PRINCIPLES AND OBJECTIVES

Article 25. Protection of Human Rights and Fundamental Freedoms

1. The cooperation provided for in this Part is based on the Parties' and Member States' long-standing respect for democracy, the rule of law and the protection of fundamental rights and freedoms of individuals, including as set out in the Universal Declaration of Human Rights and in the European Convention on Human Rights, and on the importance of giving effect to the rights and freedoms in that Convention domestically.

2. Nothing in this Part modifies the obligation to respect fundamental rights and legal principles as reflected, in particular, in the European Convention on Human Rights and, in the case of the Union and its Member States, in the Charter of Fundamental Rights of the European Union.

Article 26. Definitions

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

(a) "Border checks" means the checks carried out at border crossing points, to ensure that persons, including their means of

transport and the objects in their possession, may be authorised to enter the territory of the Member States and Gibraltar or authorised to leave it;

(b) "Border control" means the activity carried out at a border, in accordance with and for the purposes of this Agreement, in response exclusively to an intention to cross or the act of crossing that border, regardless of any other consideration, consisting of border checks and border surveillance;

(c) "Border surveillance" means the surveillance of borders between border crossing points and the surveillance of border crossing points outside the fixed opening hours, in order to prevent or detect unauthorised border crossings or the circumvention of border checks, to contribute to raising situational awareness, to counter cross-border criminality and to take measures against persons who have crossed the border illegally;

(d) "Civilian component" means civilian persons who are in the employ of, or contracted by, the Government of the United Kingdom and who are not persons resident in Gibraltar or in the Union, with the exception of persons who have the right to reside in the United Kingdom or the Common Travel Area;

(e) "Coercive action" means measures to be taken in respect of a person or object when performing functions related to border control, including as a follow up to alerts in databases and information systems used in the context of border control including, but not limited to, temporary limitation of movement, detention, arrest, placement under protection, inquiries, search and seizure of objects, and any other form of action in response to alerts with the purpose of investigating or gathering evidence that a crime has been committed or planned as well as refusals of entry;

(f) "Family members forming part of the household" means the spouse or partner of a member of the non-resident United Kingdom Forces or civilian component or the child of such member depending on them for support and who are not persons resident in the European Union nor in Gibraltar;

(g) "International protection" means refugee status according to the Convention relating to the Status of Refugees done at Geneva on 28 July 1951, as amended by the New York Protocol of 31 January 1967 and subsidiary protection status whereby a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to their country of origin, or in the case of a stateless person, to their country of former habitual residence, would face a real risk of suffering serious harm and is unable, or, owing to such risk, unwilling to avail themselves of the protection of that country;

(h) "Member States applying the Schengen acquis in full" means the Member States which have abolished checks on persons at their common borders;

(i) "Non-resident United Kingdom Forces" means persons serving in the United Kingdom Forces, either as regulars or reserves, who are citizens of the United Kingdom, Commonwealth citizens, citizens of Ireland or have the right to reside in the United Kingdom or the Common Travel Area and who are not persons resident in Gibraltar;

(j) "Persons resident in Gibraltar" means persons having the legal right to reside in Gibraltar irrespective of their nationality, with the exception of Union citizens and nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation as well as nationals of the Principality of Andorra and the Republic of San Marino following the entry into force of agreements conferring such nationals with free movement rights;

(k) "Second Line Check" means a further check which may be carried out in a special location away from the location at which all persons are checked (first line);

(l) "Second Line Checks Area" means a special location, as delimited in accordance with arrangements made by the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain pursuant to Article 33, where activities including second line checks and operational cooperation between the competent authorities take place;

(m) "Third country national" means any person who is not:

(i) a Union citizen within the meaning of Article 20(1) of the Treaty on Functioning of the European Union or a family member of a Union citizen, irrespective of their nationality, as referred to in Articles 2 and 3 of Directive 2004/38/EC of the European Parliament and of the Council (1);

(1) Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ EC L 158, 30.4.2004, p. 77, ELI: http://data.europa.eu/eli/dir/2004/38/oj).

(ii) a national of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation, the Principality of Andorra or the Republic of San Marino and their family members, irrespective of their nationality, who, under agreements between the Union and those respective countries, enjoy rights of free movement equivalent to those referred to in subparagraph (a);

(n) "Visiting third country forces" means persons serving or who are in the employ of, or contracted by, the armed services of a NATO member or of selected partners who are not persons resident in the Union, or in Gibraltar, and who are due to arrive in Gibraltar on the invitation of the United Kingdom.

Article 27. References to Certain Union Acts

For the purpose of this Part, references to Union acts in Article 26, 29 and the Annex referred to therein, 32, 33, 35, 36, 37, 42, 43, 46, 47, 48, 50, 51, 52, 53, 55, 61, 64, 74, 76, 86, 90, 96, 104 and 151 shall be understood to include those Union acts as amended or replaced in future as well as any Union act implementing or supplementing those Union acts.

Article 28. Removal of Physical Barriers

All physical barriers related to the circulation of persons between the Union and Gibraltar shall be removed.

Article 29. Border Crossing Points

1. For the purposes of this Agreement, the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall set up border crossing points at Gibraltar port and airport, at which border checks as referred to in paragraph 2 shall be carried out.

2. All passengers entering Gibraltar from Gibraltar port or airport shall be subject to border checks at the border crossing points established pursuant to paragraph 1.

3. By way of derogation from paragraph 1, border checks may be carried out at the airport border crossing point, if the volume of traffic flows through the port allows for an efficient, high and uniform level of control at the airport border crossing point. In this case, the United Kingdom in respect of Gibraltar, and the Kingdom of Spain shall ensure that passengers and crew members arriving at the port are escorted from the port to the airport border crossing point, for the purposes of undergoing the checks referred to in Articles 33(1) and (2). The modalities for the application of this derogation shall be set out in an administrative arrangement between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain.

4. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall allow the use of automated border control systems at these border crossing points for their respective checks of persons resident in Gibraltar and Union citizens and their third country family members and beneficiaries of free movement rights under agreements concluded by the Union, in accordance with domestic and Union law.

5. Border checks on entry shall be carried out by the competent authorities of the United Kingdom, in respect of Gibraltar, and subsequently by the competent authorities of the Kingdom of Spain. Border checks on exit shall be carried out by the competent authorities of the Kingdom of Spain and subsequently by the competent authorities of the United Kingdom, in respect of Gibraltar.

6. Any second line checks must be carried out at the Second Line Checks Area.

7. Without prejudice to Articles 32(3) and 43, entry conditions required by the competent authorities of the United Kingdom, in respect of Gibraltar, and the competent authorities of the Kingdom of Spain shall be cumulative. The United Kingdom, in respect of Gibraltar, undertakes to align entry conditions under the law of the United Kingdom, in respect of Gibraltar, to those applicable under Union law.

8. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall ensure that entry into Gibraltar from outside the Schengen area without controls at internal borders may only take place via the border crossing points referred to in paragraph 1.

9. Notwithstanding paragraphs 2, 5, and 8, the competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain may allow the entry into Gibraltar other than via the border crossing points, in the cases provided for by Article 5(2) (a), (b), (c) of Regulation (EU) 2016/399 of the European Parliament and of the Council (1) (the Schengen Borders Code) or Article 38 of this Agreement.

(1) Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ EU L 77, 23.3.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/399/oj).

10. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall ensure that the necessary infrastructure is in place and maintained to allow the border crossing points referred to in paragraph 1 to be operated in a manner appropriate to the volume of traffic flows to ensure an efficient, high and uniform level of control in accordance with the Schengen Borders Code. That infrastructure shall comply with the requirements referred to in Annex 7 of this Agreement and shall be set out in the administrative arrangement between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain referred to in Article 33(5).

11. As regards Annex VI of the Schengen Borders Code, Points 2.3.1, 3.1.2, 3.1.4, 3.1.5, 3.2.1, 3.2.5 and 3.2.6 of that Annex shall apply in respect of border checks performed by the competent authorities of the Kingdom of Spain at the border crossing points established in Article 29(1). Any information to be provided under those points is to be provided simultaneously and without delay to both the competent authorities of the United Kingdom, in respect of Gibraltar, and the competent authorities of the Kingdom of Spain.

Article 30. Circulation of Persons between Gibraltar and the Member States

1. The Parties shall ensure that persons may circulate between Gibraltar and the Member States applying the Schengen acquis in full without border checks being carried out, without prejudice to the provisions on sea borders in Annex VI of the Schengen Borders Code, irrespective of their nationality.

2. Notwithstanding the first paragraph, where there is a serious threat to the public policy, public health or internal security, the Member States applying the Schengen acquis in full or the United Kingdom, in respect of Gibraltar, as the case may be, may exceptionally reinstate border control between Gibraltar and the territory of the Member States applying the Schengen acquis in full for a limited period of up to 10 days. That period may be prolonged by a period of 20 days and by subsequent periods of one month until a maximum of six months. Border control between Gibraltar and the territory of the Member States applying the Schengen acquis in full shall only be reinstated as a last resort, and the scope and duration of the reinstatement shall not exceed what is strictly necessary to respond to the serious threat.

3. Where any of the Member States applying the Schengen acquis in full or the United Kingdom, in respect of Gibraltar, decide to reinstate or prolong border control between Gibraltar and the territory of that Member State in accordance with paragraph 2, the Union, where the border control is reinstated by a Member State, or the United Kingdom, in respect of Gibraltar, where the border control is reinstated by the latter, shall inform the other Party thereof:

(a) at the latest four weeks before a planned reinstatement or prolongation or as soon as possible where the circumstances giving rise to the need to reinstate or prolong border controls become known less than four weeks before a planned reinstatement or prolongation;

(b) immediately and not later than 48 hours after a decision to reinstate or prolong border control in response to a serious threat requiring immediate action to be taken.

4. When informing the other Party of a decision to reinstate or prolong border control between Gibraltar and the territory of a Member State applying the Schengen acquis in full in accordance with paragraph 3, the Union, where the border control is reinstated by a Member State, or the United Kingdom, in respect of Gibraltar, where the border control is reinstated by the latter, shall provide the other Party with the following information:

(a) whether the reinstatement or prolongation takes place on the ground of a serious threat to its public policy, public health or internal security;

(b) relevant details of the ground or grounds unless there are overriding security or confidentiality reasons for not doing so;

(c) the names of the authorised crossing-points;

(d) the starting date and duration of the reinstatement or prolongation; and

(e) where appropriate, the measures that could be taken by the other Party.

5. The Parties shall ensure that the public are informed in a coordinated manner of a decision to reinstate or prolong border control between Gibraltar and the territory of the Member States applying the Schengen acquis in full, in particular the start and end dates and scope of the reinstatement, unless there are overriding security reasons for not doing so.

Article 31. Union Databases

Under this Agreement, the competent authorities of the United Kingdom, in respect of Gibraltar, shall have no access to information systems and databases established on the basis of Union law.

Title II. BORDER CROSSING

Article 32. Border Control by the Competent Authorities of the United Kingdom, In Respect of Gibraltar

1. For the purposes of this Agreement, the competent authorities of the United Kingdom, in respect of Gibraltar, shall exercise border control, comprising border checks and border surveillance, in accordance with Gibraltar Immigration, Asylum and Refugee Act, as amended or replaced.

2. Where, following border checks carried out by the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain as referred to in Article 29(2), the competent authorities of the United Kingdom, in respect of Gibraltar, intend to refuse entry to a person and there is no requirement for other coercive action to be taken in accordance with Article 34(3), they shall immediately inform the competent authorities of the Kingdom of Spain at the border crossing point and escort the person to the Second Line Checks Area, where the competent authorities of Kingdom of Spain shall review whether the entry conditions under Union law are complied with, in accordance with Article CIRCPERS.33 and without prejudice to the possibility for the Kingdom of Spain to authorise entry in application of Article 6(5) of the Schengen Borders Code.

3. Where, on the basis of the review referred to in paragraph 2, it becomes apparent to the competent authorities of the Kingdom of Spain that the person concerned is a person having the right of free movement under Union law, including a beneficiary of free movement rights under agreements concluded by the Union, or a third country national holding a long-stay visa or a residence permit issued by a Member State applying the Schengen acquis in full, and who fulfils entry and stay conditions under Union law, the competent authorities of the Kingdom of Spain shall allow the person to enter the Member States applying the Schengen acquis in full, without prejudice to the possibility to take measures under Article 33(4)(c)(ii). The competent authorities of the United Kingdom, in respect of Gibraltar, shall allow such a person to enter the Kingdom of Spain or a Member State applying the Schengen acquis in full.

Article 33. Border Control by the Competent Authorities of the Kingdom of Spain

1. For the purpose of this Agreement the competent authorities of the Kingdom of Spain shall perform any functions which are required to exercise border control, comprising border checks and border surveillance, as set out in the Schengen Borders Code and related tasks under Union law.

2. Border checks are to be carried out at the border crossing points, established in Article 29(1), to ensure that persons, including their means of transport and the objects in their possession, may be authorised to enter the territory of the Kingdom of Spain or authorised to leave it.

3. Border surveillance is to be carried out between border crossing points in Gibraltar including the surveillance of border crossing points outside the fixed opening hours, in order to prevent persons from circumventing border checks and prevent or detect unauthorised border crossings.

4. Functions as referred to in paragraph 1 shall include:

(a) Border check functions inter alia, comprising the right to:

(i) perform border checks on persons, including second line checks, in accordance with the Schengen Borders Code;

(ii) refuse entry to third country nationals who do not fulfil the entry conditions laid down in Article 6(1) of the Schengen Borders Code, other than persons resident in Gibraltar, and persons belonging to the categories set out in Article 6(5) of the Schengen Borders Code. Where the third country national who has been refused entry was brought to the border by a carrier and pending onward transportation in accordance with the obligations of carriers referred to in Article 36, take appropriate measures to prevent the third country national who have been refused entry from entering illegally;

(b) Border surveillance functions inter alia, comprising the right to:

(i) prevent unauthorised border crossings, and take measures against persons who have crossed the border illegally, including apprehending such persons and ensuring their return in accordance with the provisions respecting Directive 2008/115/EC of the European Parliament and of the Council (1);

(1) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ EC L 348, 24.12.2008, p. 98, ELI: http://data.europa.eu/eli/dir/2008/115/oj)

(ii) perform border surveillance in such a way as to prevent and discourage persons from circumventing the checks at border crossing points, by means of stationary or mobile units;

(c) Functions carried out both for border checks and border surveillance inter alia, comprising the right to:

(i) use IT systems and information systems processing personal data in accordance with national, Union and international law, take all necessary follow-up actions or actions to be taken in accordance with national, Union and international law and establish the technical and organisational security measures required by national, Union and international law to protect personal data against accidental or unlawful destruction or accidental loss, alteration and unauthorised disclosure or access, including access by third-country authorities;

(ii) arrest, search, detain, interview, place under protection a person, or seize or search property, where it is justified in the course of border control carried out by the competent authorities of the Kingdom of Spain and in accordance with Spanish, Union and international law;

(iii) accept applications for international protection presented by any third-country national or stateless person presenting to the competent authorities of the Kingdom of Spain.

5. The competent authorities of the United Kingdom, in respect of Gibraltar, shall, where necessary, assist the competent authorities of the Kingdom of Spain in the exercise of their functions referred to in this Article and facilitate the exercise of these functions.

6. Administrative arrangements between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall set out the practical arrangements concerning the performance of the duties of the competent authorities of the Kingdom of Spain, operational cooperation aspects relating to border control and the layout for how border checks will be conducted at the border crossing points.

Article 34. Follow Up Actions to Border Checks – Alerts In Information Systems

1. In the performance of tasks in accordance with Articles 32 and 33, the competent authorities of the United Kingdom, in respect of Gibraltar, and the competent authorities of the Kingdom of Spain shall, respectively, follow up on alerts in their respective databases and information systems, in accordance with the applicable domestic and Union law.

2. Where alerts in the respective databases and information systems require coercive action to be taken, the person concerned shall be escorted to the Second Line Checks Area, with the exception of the situation under the second subparagraph.

Where the discreet collection of information is required on the basis of an alert in a database or information system operated by the competent authorities of the United Kingdom, in respect of Gibraltar, and by the competent authorities of the Kingdom of Spain, the escorting of the person to the Second Line Checks Area would jeopardise the discreet nature of any measures to be taken, the authority which identified the alert shall be authorised to collect as much information as is possible during routine border checks.

3. Where coercive action is required on the basis of alerts existing only in the databases and information systems operated by the United Kingdom, in respect of Gibraltar, the competent authorities of the United Kingdom, in respect of Gibraltar, shall take the appropriate follow up actions under the applicable domestic law of the United Kingdom, in respect of Gibraltar.

4. Where coercive action is required on the basis of alerts existing only in the databases and information systems operated by the Kingdom of Spain, the competent authorities of the Kingdom of Spain shall take the appropriate follow up actions under national and Union law.

5. Where coercive action for arrest or detention of a person is required on the basis of paragraphs 3 and 4, the following procedure shall apply, as appropriate:

(a) In the course of entry border checks, the person shall not object to the arrest or detention; or alternatively the person shall be given the choice to be refused entry;

(b) In the course of exit border checks, the person shall not object to the arrest or detention; or alternatively, the person shall be given the choice to be required to exit.

6. Where coercive action is required both on the basis of alerts existing in the databases and information systems operated by the competent authorities of the United Kingdom, in respect of Gibraltar, and those of the Kingdom of Spain, the competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall agree on the authority which will carry out the action in question or carry it out first, and, where appropriate, on any follow-up, with the exception of situations under paragraphs 7 and 9.

7. Where coercive action for arrest and detention of persons or seizure of objects is required both on the basis of alerts existing in the databases and information systems operated by the competent authorities of the United Kingdom, in respect of Gibraltar, and the competent authorities of the Kingdom of Spain, and such coercive action can only be carried out by one of these authorities, the action shall be taken by the competent authorities of Spain, in accordance with the applicable national and Union law. However, in exceptional cases, a stay of arrest and detention where there are individual human rights concerns or where there are conflicting international obligations concerning extradition, may be requested by the relevant competent authority. In such case, the issues must be resolved by the relevant authorities before any removal takes place.

8. The competent authorities of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, shall notify the other competent authorities of the termination of coercive action carried out pursuant to paragraphs 6 and 7 with a view to enabling the other competent authorities, where appropriate, and with the exception of situations under paragraph 9, follow-up action to be carried out on the basis of alerts existing in the databases and information systems operated by the competent authorities.

9. Where coercive action for arrest or detention is required by the competent authorities of the Kingdom of Spain, and the person concerned is a person resident in Gibraltar, the action may only be carried out by the competent authorities of the United Kingdom, in respect of Gibraltar. The competent authorities of the United Kingdom, in respect of Gibraltar shall, upon request by the competent authorities of the Kingdom of Spain and following receipt of such information as is necessary to enable lawful execution of the coercive action, carry out the requested action with a view to enabling the Kingdom of Spain to take follow-up action to be carried out on the basis of alerts existing in databases and information systems operated by its competent authorities. The competent authorities of the United Kingdom, in respect of Gibraltar, shall notify the competent authorities of the Kingdom of Spain of the coercive action carried out with a view to a fast extradition pursuant to the first paragraph.

10. In all cases of arrest under this Article, the person shall be provided with appropriate procedural safeguards prior to any decision or choice.

11. This Article is without prejudice to the obligations of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain under the Statute of the International Criminal Court.

Article 35. Follow Up Actions to Border Control – Refusals of Entry

1. The competent authorities of the United Kingdom, in respect of Gibraltar, shall enforce a refusal of entry in respect of third country nationals who do not fulfil entry conditions under the law of the United Kingdom, in respect of Gibraltar, only, in accordance with Article 32.

2. The competent authorities of the Kingdom of Spain shall enforce a refusal of entry in respect of third country nationals who do not fulfil entry conditions under Union law, only, in accordance with Article 33(4)(a)(ii), and who have not been authorised to enter in application of Article 6(5) of the Schengen Borders Code.

3. The competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain, shall jointly enforce a refusal of entry in respect of third country nationals who do not fulfil entry conditions under both the law of the United Kingdom, in respect of Gibraltar, and Union law, in accordance with Articles CIRCPERS.32 and CIRCPERS.33(4)(a)(ii).

4. Refusals of entry in accordance with this Article shall be enforced after any action which may have been taken as a follow up to an alert existing in the databases and information systems of the competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain in accordance with Article 34.

Article 36. Carriers' Liability

Article 26 of the Convention Implementing the Schengen Agreement and Council Directive 2001/51/EC of 28 June 2001 (1) shall apply to the United Kingdom, in respect of Gibraltar, and in Gibraltar, for the transport to Gibraltar by sea or air from a

third country of persons other than Union citizens, nationals of Iceland, the Kingdom of Norway, the Swiss Confederation, the Principality of Liechtenstein, and nationals of the Principality of Andorra and the Republic of San Marino following the entry into force of agreements conferring such nationals with free movement rights, third country nationals who do not possess the necessary travel documents for entry into the Member States except Ireland.

(1) Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ EC L 187, 10.7.2001, p. 45, ELI: http://data.europa.eu/eli/dir/2001/51/oj)

Article 19 Shall Apply.

Article 37. Advance Passenger Information

The United Kingdom, in respect of Gibraltar, shall ensure that carriers transfer Advance Passenger Information (API) concerning flights originating outside the Schengen area and arriving in the airport to the authorities of the Kingdom of Spain. The API data as well as its transfer shall comply with the requirements of Council Directive 2004/82/EC (1).

(1) Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data (OJ EC L 261, 6.8.2004, p. 24, ELI: http://data.europa.eu/eli/dir/2004/82/oj).

Article 19 Shall Apply.

Article 38. Entry and Exit of Non-resident United Kingdom Forces, Their Civilian Component, Their Family Members Forming Part of the Household and Visiting Third-country Forces

1. On the conditions specified in paragraph 2 and subject to compliance with the formalities established in this Agreement relating to entry and exit of members of non-resident United Kingdom Forces or of visiting third-country forces, such persons shall be exempt from passport and visa regulations and the Schengen border checks in accordance with Article 33 at the Schengen border crossing points referred to in Article 29(1), but they shall not be considered as acquiring any right to permanent residence or domicile in the Schengen area.

2. Only the following documents shall be required for the registration of members of non-resident United Kingdom Forces or of visiting third country forces, to be presented at the Schengen border crossing points:

(a) personal identity card issued by the Ministry of Defence of the United Kingdom or the Ministry of Defence of the visiting third-country force showing names, date of birth, rank and number (if any), service, and photograph;

(b) individual or collective movement order, in the Spanish and English languages, issued by the Ministry of Defence of the United Kingdom and certifying the status of the individual or group as a member or members of a non-resident United Kingdom Force or of a visiting third-country force and to the movement ordered;

Any data collected for the purposes of this paragraph shall be used exclusively for border security at the border crossing points established under Article CIRCPERS.29.

3. In respect of the entry and exit of non-resident United Kingdom Forces, of those residence permit holders who are entitled to the provision in Article 50(13) and 51(12), of visiting third-country forces and of the civilian component arriving and exiting aboard State aircraft or State vessels, the United Kingdom shall make information available to the Kingdom of Spain necessary for the identification of such persons. The identification of these persons upon arrival or departure shall take place by the Liaison Officers designated in accordance with an administrative arrangement between the Kingdom of Spain and the United Kingdom. Family members forming part of the household shall be directed to the border crossing points.

4. On the conditions specified in paragraph 5 and subject to compliance with the formalities established in this Agreement relating to entry and exit of the members of the civilian component of non-resident United Kingdom Forces and family members forming part of the household, such persons shall be exempt from passport and visa regulations and immigration inspection at Schengen border checks in accordance with Article 33 at the Schengen border crossing points referred to in Article 29(1), but they shall not be considered as acquiring any right to permanent residence or domicile in the Schengen area.

5. Only the following documents shall be required for the registration of members of the civilian component of non-resident United Kingdom Forces and family members forming part of the household who are nationals of the United Kingdom or who have the right to reside in the United Kingdom or the Common Travel Area. They must be presented at the Schengen border crossing points referred to in Article 29(1):

(a) valid United Kingdom passport or United Kingdom travel document or residence permit of the United Kingdom;

(b) individual or collective movement order, in the Spanish and English languages, issued by the Ministry of Defence of the United Kingdom and certifying the status of the individual or group as a member or members of the civilian component of non-resident United Kingdom Forces or family members forming part of the household, and to the movement ordered;

Any data collected for the purposes of this paragraph shall be used exclusively for border security at the border crossing points referred to in Article 29(1).

6. Members of the civilian component or family members forming part of the household who are not citizens of the United Kingdom or who do not have the right to reside in the United Kingdom or the Common Travel Area shall be subject to Schengen border checks as foreseen in Article 33. These persons shall not undergo additional Schengen border checks to exit or enter a Member State applying the Schengen acquis according to paragraph 7 provided that their entry or exit has been authorized according to this paragraph.

7. Those members of non-resident United Kingdom Forces, of visiting third-country forces, of the civilian component and family members forming part of their household, that wish to exit or enter a Member State applying the Schengen acquis in full shall be subject to the Schengen border checks in accordance with Article 33 at the Schengen border crossing points referred to in Article 29(1). The United Kingdom and the Kingdom of Spain shall inform these persons of the obligation to undergo such checks and of the possibility that they may be subject to disciplinary action if they fail to do so, without prejudice to the application of Union acts governing the return of illegally staying third-country nationals. Regularly constituted units or formations shall not be allowed to enter or exit the Schengen area through the border crossing points referred to in Article 29(1).

Title III. SAFEGUARDS

Chapter 1. RESIDENCE IN GIBRALTAR, SPECIAL RULES, ISSUANCE OF RESIDENCE PERMITS AND VISAS

Article 39. Scope

For the purpose of this Chapter, references to the Member States shall be understood as references to all Member States except Ireland.

Article 40. Relation with EU Law

This Agreement shall be without prejudice to any rights or obligations that persons resident in Gibraltar may have under Union law.

Article 41. Visa Free Travel

1. Citizens of the Union, their third-country family members who hold a residence card under Directive 2004/38/EC of the European Parliament and of the Council, and third country nationals legally residing in the Member States applying the Schengen acquis in full may enter and stay in Gibraltar without a visa for a maximum period of 90 days in any 180-day period.

Persons resident in Gibraltar may enter and stay, without a visa for a maximum period of 90 days in any 180-day period, in the territory of Member States applying the Schengen acquis in full.

For entry and stay without a visa for a maximum period of 90 days in any 180-day period in the territory of Member States other than those applying the Schengen acquis in full, the authorised period of stay shall be calculated separately for each of these Member States.

2. Notwithstanding the second subparagraph of paragraph 1, each Member State may decide to impose a visa requirement on persons resident in Gibraltar travelling for the purpose of carrying out a paid activity.

Notwithstanding the first subparagraph of paragraph 1, for persons referred to in that subparagraph, the United Kingdom, in respect of Gibraltar, may decide to impose a visa requirement on such persons travelling for the purposes of carrying out a paid activity.

Article 42. Facilitations at the External Borders

1. When crossing the external borders of a Member State, including the border crossing points referred to in Article 29(1), no entry or exit stamp shall be affixed to the travel documents of persons resident in Gibraltar.

Persons resident in Gibraltar shall be exempt from the requirements of the Entry Exit System.

2. When crossing the external borders of a Member State, including the border crossing points referred to in Article 29(1), persons resident in Gibraltar shall be exempt from the requirement to be in possession of a valid travel authorisation pursuant to Regulation (EU) 2018/1240 of the European Parliament and of the Council (1).

(1) Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ EU L 236, 19.9.2018, p. 1, ELI: http://data.europa.eu/eli/reg/2018/1240/oj).

Article 43. Entry Into Gibraltar

1. Persons resident in Gibraltar shall not be subject to verifications with regard to fulfilment of the conditions laid down in point (c) of Article 6(1) of the Schengen Borders Code at the border crossing points established under Article CIRCPERS.29(1), for the purposes of entering Gibraltar.

2. Persons resident in Gibraltar who do not fulfil the other entry conditions laid down in Article 6(1) of the Schengen Borders Code, shall in any event not be prevented from crossing the border crossing points established under Article 29(1) for the purposes of entering Gibraltar.

Article 44. Entry to the Member States for Transit Purposes

Persons resident in Gibraltar who do not fulfil all the entry conditions laid down in Article 6(1) of the Schengen Borders Code shall be authorised to enter the territory of the Member States for transit purposes so that they may reach Gibraltar, unless their names are on the national list of alerts of the Member State whose external borders they are seeking to cross and the alert is accompanied by instructions to refuse entry or transit.

Article 45. Right of Residence In Gibraltar

1. A legal right to reside in Gibraltar shall be proven on the basis of a person holding a valid identity card or residence permit issued in Gibraltar by the competent authorities of the United Kingdom, in respect of Gibraltar, and subject to the conditions set out in this Article.

2. The United Kingdom, in respect of Gibraltar, shall ensure that identity cards and residence permits issued in Gibraltar are issued only to persons who meet the conditions for entitlement to such identity card or residence permit set out in the legislation in force on the date of entry into force of this Agreement.

3. The United Kingdom, in respect of Gibraltar, shall ensure that the conditions for entitlement to an identity card issued in Gibraltar in the legislation referred to in paragraph 2 are consistent with international law.

4. The United Kingdom, in respect of Gibraltar, shall inform the Cooperation Council whenever changes are proposed to be made to the conditions in the legislation referred to in paragraph 2 after the date of entry into force of this Agreement. The Cooperation Council shall, within one month of being so informed, provide its opinion on whether or not such changes are compatible with this Agreement. Such changes shall not, in any event, make it possible for a person to be able to obtain:

(a) an identity card issued in Gibraltar, on the basis of prior residence in Gibraltar, unless they have been resident in Gibraltar for a continuous period of at least ten years immediately prior to the date of application for the card;

(b) a residence permit issued in Gibraltar unless they are able to demonstrate a genuine connection with Gibraltar.

5. The condition in point (b) of paragraph 4 shall be established on the basis of a person being able to demonstrate actual

and regular physical presence in Gibraltar over an appropriate period of time or on the basis of other objective and verifiable criteria.

6. The conditions for entitlement to an identity card issued by the competent authorities of the United Kingdom in respect of Gibraltar on a basis other than prior residence as well as the condition for entitlement to a residence permit referred to in point (b) of paragraph 4 shall not be met:

(a) on the basis of predetermined investments having been made in Gibraltar's economy or real estate; or

(b) as a result of any predetermined financial payments having been made to the Gibraltar authorities.

7. Subject only to Article 52, the United Kingdom, in respect of Gibraltar, shall ensure that residence permits issued in Gibraltar are issued or renewed only in accordance with the procedure set out in Articles 50 and 51.

8. Residence permits issued to persons who no longer meet the conditions in point (b) of paragraph 4 shall be withdrawn.

Article 46. Enhanced Notification for Persons Resident In Gibraltar

1. The United Kingdom, in respect of Gibraltar, shall regularly review potential risks resulting from the possibility for persons resident in Gibraltar to travel to the territory of the Member States where the Schengen acquis is applied in full, and shall regularly, and at a minimum, every three months, provide such a risk assessment to the Kingdom of Spain. In carrying out such risk assessment, the United Kingdom, in respect of Gibraltar, shall have regard to all relevant information at its disposal, including in connection with enforcement and counter-terrorist investigations and operations.

Where the United Kingdom, in respect of Gibraltar, has grounds to consider that a person resident in Gibraltar could pose a serious threat to public policy or internal security, public health or the international relations of a Member State, it shall inform the Kingdom of Spain without delay setting out the grounds upon which that assessment is based.

Article 6(1) shall not apply to exchange of information under the second sub-paragraph.

2. If, on the basis of information received pursuant to paragraph 1, or on the basis of any other information, the Kingdom of Spain considers that a person resident in Gibraltar constitutes a sufficiently serious threat to public policy or internal security, public health or its international relations, and on these grounds decides that the individual is prohibited from leaving Gibraltar to travel to the territory of the Member States applying the Schengen acquis in full, it shall notify the authorities of the United Kingdom, in respect of Gibraltar, of that prohibition.

The notification shall set out the reasons for the prohibition, as well as the means by which the person concerned may appeal the prohibition before a national court of the Kingdom of Spain. The lodging of an appeal shall not be required to have suspensive effect on a decision to prohibit entry.

Article 6(1) shall not apply to exchange of information under the second sub-paragraph.

3. Where the United Kingdom, in respect of Gibraltar, has received a notification referred to in paragraph 2, it shall:

(a) inform the person concerned of the notification and the content thereof;

(b) take all necessary steps to prevent prohibited travel to the Schengen area, including through police and judicial cooperation with the Kingdom of Spain.

4. This Article shall not apply to:

(a) family members of Union citizens, irrespective of their nationality, referred to in Articles 2 and 3 of Directive 2004/38/EC;

(b) family members, irrespective of their nationality, of nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation, the Principality of Andorra and the Republic of San Marino, who under agreements concluded by the Union enjoy rights of free movement equivalent to those referred to in point (a).

Article 47. Short Stay Visas In Respect of Gibraltar

1. Nationals of third countries required to be in possession of a short stay visa to enter and stay in the Member States in accordance with Union law shall also be required to be in possession of a visa to enter and stay in Gibraltar.

2. Nationals of third countries exempt from the requirement to be in possession of a short stay visa to enter and stay in the Member States in accordance with Union law shall not be required to be in possession of a visa to enter and stay in

Gibraltar.

3. Short-stay visas issued in accordance with Union law, in particular Regulations (EC) No 810/2009 of the European Parliament and of the Council (1) and (EU) 2018/1806 of the European Parliament and of the Council (2), shall also be valid for entry and stay in Gibraltar for a maximum period of 90 days in any 180-day period. Where the main purpose is to stay in Gibraltar, the Kingdom of Spain, the neighbouring Member State, shall issue the visa.

(1) Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ EC L 243, 15.9.2009, p. 1, ELI: http://data.europa.eu/eli/reg/2009/810/oj)

(2) Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ EU L 303, 28.11.2018, p. 39, ELI: http://data.europa.eu/eli/reg/2018/1806/oj)

4. The Kingdom of Spain shall notify the United Kingdom, in respect of Gibraltar, when it intends to issue a visa in accordance with the second sentence of paragraph 3. Where the United Kingdom, in respect of Gibraltar, considers that a visa should not be issued in accordance with the second sentence of paragraph 3, on account of sufficiently serious reasons pertaining to public policy, internal security or public health, including on the basis of an alert issued in Gibraltar, it shall inform the Kingdom of Spain. In that case, any visa issued by the Kingdom of Spain, by derogation from paragraph 3, shall not be valid for entry and stay in Gibraltar, which shall be marked in the "comments" section of the visa. Article 6(1) shall not apply to notifications under this paragraph.

5. Visas other than those issued pursuant to paragraph 3 and pursuant to Article 47 shall not be valid for entry and stay in Gibraltar.

Article 48. Exceptional External Borders Visas In Respect of Gibraltar

1. This Article applies when, following the completion of border checks, a person who is not in possession of a valid visa required to enter Gibraltar or the Member States, expresses the wish to enter and stay only in Gibraltar.

2. In the case referred to in paragraph 1, the competent authorities of the United Kingdom, in respect of Gibraltar, may exceptionally issue a short-stay visa at the external border crossing points established pursuant to Article 29(1) when there are compelling grounds to do so on humanitarian grounds, if the following conditions are fulfilled:

(a) the applicant submits supporting documents or other evidence substantiating unforeseeable and imperative reasons for entry on humanitarian grounds;

(i) the applicant satisfies the conditions for entry, other than compliance with one or more of the following conditions:

(ii) holding a visa, required by the competent authorities of the United Kingdom, in respect of Gibraltar, and by the competent authorities of the Kingdom of Spain;

(iii) having stayed in the territory of the Member States for no more than 90 days in any 180-day period;

a) being in possession of a valid travel document that entitles the holder to cross the border and that satisfies the following criteria:

b) its validity extends at least three months after the intended date of departure;

it has been issued within the previous 10 years; and

(c) the applicant's return to their country of origin or residence or transit through States other than Member States applying the Schengen acquis in full is assessed as certain.

3. A visa exceptionally issued at the external borders in accordance with paragraph 2 shall be valid only for the territory of Gibraltar, entitling the holder to stay there for a maximum duration of 15 days, depending on the purpose and conditions of the intended stay. The period of the duration of stay may subsequently be extended by a maximum of 15 days if the competent authorities of the United Kingdom, in respect of Gibraltar, consider that the visa holder has provided proof of force majeure or humanitarian reasons preventing them from leaving. It shall not give the holder the right to enter the territory of the Member States.

4. Where the Kingdom of Spain considers that a visa should not be issued or extended in accordance with paragraphs 2 and 3 because there are sufficiently serious reasons pertaining to public policy, internal security or public health, including on the basis of an alert issued in the Schengen Information System, it shall inform the United Kingdom, in respect of Gibraltar, of its objection to issuance of such a visa. In that case, the United Kingdom, in respect of Gibraltar, shall refrain from issuing a visa at the external borders in accordance with paragraph 2.

5. When the United Kingdom, in respect of Gibraltar, decides to issue or extend a visa in accordance with paragraphs 2 or 3, it shall allow the competent authorities of the Kingdom of Spain to record the data of the applicant, including biometric identifiers, that is required for visa issuance or extension in accordance with Union law, in particular with the provisions of Regulation (EU) 2018/1806 of the European Parliament and of the Council, of Regulation (EC) No 810/2009 of the European Parliament and of the Council and of Regulation (EC) No 767/2008 of the European Parliament and of the Council (1). The Kingdom of Spain shall enter these data into the Visa Information System, adding information indicating that the visa has been issued with territorial validity limited to the territory of Gibraltar pursuant to this Article.

(1) Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of information between Member States on short-stay visas and residence permits (VIS Regulation) (OJ EC L 218, 13.8.2008, p. 60, ELI: http://data.europa.eu/eli/reg/2008/767/oj).

6. The number of visas pursuant to paragraph 2 shall not exceed 15 in each calendar year. That number of visas issued each calendar year may be amended by decision of the Cooperation Council.

7. Visas issued pursuant to paragraph 2 shall be issued in a format to be determined by the competent authorities of the United Kingdom, in respect of Gibraltar. The United Kingdom, in respect of Gibraltar, shall provide the Kingdom of Spain with specimens of such visas and any subsequent modification thereto for information purposes.

Article 49. Long Stay Visas Valid for Gibraltar

Long stay visas valid for Gibraltar shall not be issued.

Article 50. Residence Permits In Respect of Gibraltar

1. The competent authorities of the United Kingdom, in respect of Gibraltar, shall be responsible for issuing or renewing residence permits in respect of Gibraltar. Such residence permits may only be issued or renewed, where the relevant conditions under Article 45 are fulfilled.

2. Before issuing or renewing a residence permit, the competent authorities of the United Kingdom, in respect of Gibraltar, shall notify the competent authorities of the Kingdom of Spain.

3. Within 28 calendar days of being notified under paragraph 2, the competent authorities of the Kingdom of Spain may inform the competent authorities of the United Kingdom, in respect of Gibraltar, of their objection to the issuance or renewal of a residence permit where the applicant is considered, in accordance with the Schengen acquis, to be a threat to public policy (1), internal security, public health or the international relations of any of the Member States, including on the basis of an alert issued in the Schengen Information System. In that case, the competent authorities of the United Kingdom, in respect of Gibraltar, shall not issue or renew the residence permit, and shall inform the applicant of the outcome and provide to the applicant the contact details of the competent authorities of the Kingdom of Spain. Upon request of the applicant, the competent authorities of the Kingdom of Spain shall, with due regard to their obligations under national and Union law, inform the applicant of:

(1) Measures taken on the grounds of public policy shall be proportionate and shall be based exclusively on the personal conduct of the individual concerned, which must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.

(a) its decision to object to the issuing or renewing of a residence permit;

(b) the grounds for objecting to the issuing or renewing of the residence permit, considering the applicant to be a threat to public policy, or internal security, public health or the international relations, accompanied, where appropriate, by the essence of the reasons; and

(c) the appropriate remedies in accordance with national and Union law.

Article 6(1) shall not apply to this paragraph.

4. The competent authorities of the Kingdom of Spain may notify the competent authorities of the United Kingdom, in respect of Gibraltar, that the period of 28 calendar days referred to in paragraph 3 is extended by a maximum of 14 calendar days. The absence of a response by the expiry of that 28 calendar days period shall be considered a positive response. In any case, the competent authorities of the United Kingdom, in respect of Gibraltar, shall refrain from issuing or renewing a residence permit before the end of the period provided in this paragraph.

Article 6(1) shall not apply to this paragraph.

5. Where there are grounds to object to a person holding a residence permit, including when the holder is considered to be a threat to public policy, internal security, public health or the international relations of a Member State, including on the basis of an alert issued in the Schengen Information System, the competent authorities of the Kingdom of Spain shall request the competent authorities of the United Kingdom, in respect of Gibraltar, to withdraw that residence permit. In that case, the competent authorities of the United Kingdom, in respect of Gibraltar, shall withdraw the residence permit without delay and shall provide to the holder the contact details of the competent authorities of the Kingdom of Spain. Upon request of the holder, the competent authorities of the Kingdom of Spain shall, with due regard to its obligations under national and Union law, inform the holder of:

(a) Its decision to request the withdrawal of a residence permit;

(b) the grounds for considering the holder to be a threat to public policy, or internal security, public health or the international relations accompanied, where appropriate, by the essence of the reasons; and

(c) the appropriate remedies in accordance with national and Union law.

Article 6(1) shall not apply to this paragraph.

6. Where, a residence permit is issued, or not withdrawn, because the competent authorities of the Kingdom of Spain have not objected to it pursuant to paragraphs 3 or 5 and despite an alert in the Schengen Information System for the purposes of refusing entry, or for the purposes of return, that residence permit does not give the holder the right to enter the territory of the Member States.

7. A residence permit in respect of Gibraltar shall comply with the uniform format laid down in Union law and shall bear clear indications that it is valid for Gibraltar.

8. The United Kingdom, in respect of Gibraltar, shall provide the Kingdom of Spain with specimens of permits in respect of Gibraltar and any subsequent modification thereto for the purpose of Spain notifying these to the Commission in line with the procedure in Article 39(1)(a) of the Schengen Borders Code.

9. The Kingdom of Spain shall designate, in accordance with Article 68, the authority responsible for receiving the information pursuant to this Article. The United Kingdom, in respect of Gibraltar, shall notify, in accordance with Article 68, the authority responsible for receiving applications for residence permits, issuing or renewing residence permits in respect of Gibraltar and submitting information to the Kingdom of Spain pursuant to this Article.

10. This Article shall apply until the date on which the Visa Information System (VIS) operations start pursuant to Regulation (EU) 2021/1134 of the European Parliament and of the Council (1). From that date, Article 51 shall apply.

(1) Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the Visa Information System (OJ EU L 248, 13.7.2021, p. 11, ELI: http://data.europa.eu/eli/reg/2021/1134/oj).

11. The Union shall inform the United Kingdom, in respect of Gibraltar, of the date on which the operations referred to in paragraph 9 will start, in advance of that date.

12. Paragraphs 2 to 6 shall not apply to:

(a) Union citizens and family members of Union citizens, irrespective of their nationality, referred to in Articles 2 and 3 of Directive 2004/38/EC;

(b) nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation, the Principality of Andorra and the Republic of San Marino and their family members, irrespective of their nationality, who under agreements

concluded by the Union enjoy rights of free movement equivalent to those referred to in point (a).

13. In the case of persons and family members forming part of their household posted in service to United Kingdom forces or to the United Kingdom, in respect of Gibraltar, where the competent authorities of the Kingdom of Spain have objected to the issuance of the residence permit in accordance with paragraph 3, they shall be issued a residence permit with territorial validity limited to Gibraltar.

Article 51. Residence Permits In Respect of Gibraltar

1. The competent authorities of the United Kingdom, in respect of Gibraltar, shall be responsible for issuing or renewing residence permits in respect of Gibraltar. Such residence permits may only be issued or renewed, where the relevant conditions under Article 45 are fulfilled.

2. Before issuing or renewing a residence permit, the competent authorities of the United Kingdom, in respect of Gibraltar, shall notify the competent authorities of the Kingdom of Spain.

3. Without prejudice to paragraph 1, the competent authorities of the United Kingdom, in respect of Gibraltar, shall ensure that the data necessary for the Kingdom of Spain to be able to comply with Chapter III of Regulation (EC) No 767/2008 with regard to applications for residence permits made in Gibraltar, is collected and transferred to the competent authorities of the Kingdom of Spain within 2 working days of the application being made.

In this respect, the competent authorities of the United Kingdom, in respect of Gibraltar, shall ensure that:

(a) the data collected is accurate, up to date and of an adequate level of quality and completeness;

(b) has been collected lawfully, respecting the safeguards laid down in that Chapter;

(c) the applicant has been provided with the information referred to in Articles 37(1) and (2) of Regulation (EC) No 767/2008; and

(d) the applicant provides at the time of application consent to the processing of their data in line with the provisions of Regulation (EC) No 767/2008.

4. Within 28 calendar days of being notified under paragraph 2, the competent authorities of the Kingdom of Spain may inform the competent authorities of the United Kingdom, in respect of Gibraltar, of their objection to the issuance or renewal of a residence permit, where the applicant is considered, in accordance with the Schengen acquis, to be a threat to public policy (1), internal security, public health or the international relations of any of the Member States, including on the basis of an alert issued in the Schengen Information System. In that case, the competent authorities of the United Kingdom, in respect of Gibraltar, shall not issue or renew the residence permit and shall inform the applicant of the outcome and provide to the applicant the contact details of the competent authorities of the Kingdom of Spain. Upon request of the applicant, the competent authorities of the Kingdom of Spain shall, with due regard to their obligations under national and Union law, inform the applicant of:

(1) Measures taken on the grounds of public policy shall be proportionate and shall be based exclusively on the personal conduct of the individual concerned, which must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.

(a) their decision to object to the issuing or renewing of a residence permit;

(b) the grounds for objecting to the issuing or renewing of the residence permit, considering the applicant to be a threat to public policy, or internal security, public health or the international relations, accompanied, where appropriate, by the essence of the reasons; and

(c) the appropriate remedies in accordance with national and Union law.

Article 6(1) shall not apply to this paragraph.

5. The competent authorities of the Kingdom of Spain may notify the competent authorities of the United Kingdom, in respect of Gibraltar, that the period of 28 calendar days referred to in paragraph 3 is extended by a maximum of 14 calendar days. The absence of a response by the expiry of that 28 calendar days period shall be considered a positive response. In any case, the competent authorities of the United Kingdom, in respect of Gibraltar, shall refrain from issuing or renewing a residence permit before the end of the period provided in this paragraph.

Article 6(1) shall not apply to this paragraph.

6. Where there are grounds to object to a person holding a residence permit, including when the holder is considered to be a threat to public policy, internal security, public health or the international relations of a Member State, including on the basis of an alert issued in the Schengen Information System, the competent authorities of the Kingdom of Spain shall request the competent authorities of the United Kingdom, in respect of Gibraltar, to withdraw that residence permit. In that case, the competent authorities of the United Kingdom, in respect of Gibraltar, shall withdraw the residence permit without delay and shall provide to the holder the contact details of the competent authorities of the Kingdom of Spain. Upon request of the holder, the competent authorities of the Kingdom of Spain shall, with due regard to their obligations under national and Union law, inform the holder of:

(a) their decision to request the withdrawal of a residence permit;

(b) the grounds for considering the holder to be a threat to public policy, or internal security, public health or the international relations accompanied, where appropriate, by the essence of the reasons; and

(c) the appropriate remedies in accordance with national and Union law.

Article 6(1) shall not apply to this paragraph.

7. Where a residence permit is issued, or not withdrawn, because the competent authorities of the Kingdom of Spain have not objected to it pursuant to paragraphs 4 or 6 and despite an alert in the Schengen Information System for the purposes of refusing entry, or for the purposes of return, that residence permit does not give the holder the right to enter the territory of the Member States.

8. A residence permit in respect of Gibraltar shall comply with the uniform format laid down in Union law and shall bear clear indications that it is valid for Gibraltar.

9. The United Kingdom, in respect of Gibraltar, shall provide Spain with specimens of permits in respect of Gibraltar and any subsequent modification thereto for the purpose of the Kingdom of Spain notifying these to the Commission in line with the procedure in Article 39(1)(a) of the Schengen Borders Code.

10. The Kingdom of Spain shall designate, in accordance with Article 68, the authority responsible for receiving the information pursuant to this Article. The United Kingdom, in respect of Gibraltar, shall notify in accordance with Article 68 the authority responsible for receiving applications for residence permits, issuing or renewing residence permits in respect of Gibraltar and submitting information to the Kingdom of Spain pursuant to this Article.

11. Paragraphs 2 to 7 shall not apply to:

(a) Union citizens and family members of Union citizens, irrespective of their nationality, referred to in Articles 2 and 3 of Directive 2004/38/EC;

(b) nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation, the Principality of Andorra and the Republic of San Marino and their family members, irrespective of their nationality, who under agreements concluded by the Union enjoy rights of free movement equivalent to those referred to in point (a).

12. In the case of persons and family members forming part of their household posted in service to United Kingdom forces or to the United Kingdom, in respect of Gibraltar, where the competent authorities of the Kingdom of Spain has objected to the issuance of the residence permit in accordance with paragraph 4, they shall be issued a residence permit with territorial validity limited to Gibraltar.

Article 52. Transitional Rule for Residence Permits

1. Residence permits issued by the competent authorities of the United Kingdom, in respect of Gibraltar, prior to the date of entry into force of this Agreement shall remain valid for a period of two calendar years after that date or until their expiration date, whichever comes first.

2. The United Kingdom, in respect of Gibraltar, shall provide the Kingdom of Spain with specimens of such permits and any subsequent modification thereto for the purposes of the Kingdom of Spain notifying these to the Commission in accordance with Article 39(1) (a) of the Schengen Borders Code.

3. The competent authorities of the United Kingdom, in respect of Gibraltar, shall notify the competent authorities of the Kingdom of Spain of the holders of residence permits in force at the time of the entry into force of this Agreement. The competent authorities of the Kingdom of Spain may, on the basis of checks on such persons in the relevant Union, national

and international databases, including the Schengen Information System request the competent authorities of the United Kingdom, in respect of Gibraltar, to withdraw a residence permit where the applicant is considered, in accordance with the Schengen acquis, to be a threat to public policy (1), internal security, public health or the international relations of any of the Member States. Upon receipt of such a request, the competent authorities of the United Kingdom, in respect of Gibraltar, shall withdraw the relevant residence permit subject to a right of appeal in before a national court.

(1) Measures taken on the grounds of public policy shall be proportionate and shall be based exclusively on the personal conduct of the individual concerned, which must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.

Article 6(1) shall not apply to this paragraph.

4. Paragraph 3 shall not apply to:

(a) Union citizens and family members of Union citizens, irrespective of their nationality, referred to in Articles 2 and 3 of Directive 2004/38/EC;

(b) nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation, the Principality of Andorra and the Republic of San Marino and their family members, irrespective of their nationality, who under agreements concluded by the Union enjoy rights of free movement equivalent to those referred to in point (a).

Article 52. Transitional Rule for Residence Permits

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2. The United Kingdom, in respect of Gibraltar, shall provide the Kingdom of Spain with specimens of such permits and any subsequent modification thereto for the purposes of the Kingdom of Spain notifying these to the Commission in accordance with Article 39(1) (a) of the Schengen Borders Code.

3. The competent authorities of the United Kingdom, in respect of Gibraltar, shall notify the competent authorities of the Kingdom of Spain of the holders of residence permits in force at the time of the entry into force of this Agreement. The competent authorities of the Kingdom of Spain may, on the basis of checks on such persons in the relevant Union, national and international databases, including the Schengen Information System request the competent authorities of the United Kingdom, in respect of Gibraltar, to withdraw a residence permit where the applicant is considered, in accordance with the Schengen acquis, to be a threat to public policy (1), internal security, public health or the international relations of any of the Member States. Upon receipt of such a request, the competent authorities of the United Kingdom, in respect of Gibraltar, shall withdraw the relevant residence permit subject to a right of appeal in before a national court.

(1) Measures taken on the grounds of public policy shall be proportionate and shall be based exclusively on the personal conduct of the individual concerned, which must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.

Article 6(1) shall not apply to this paragraph.

4. Paragraph 3 shall not apply to:

(a) Union citizens and family members of Union citizens, irrespective of their nationality, referred to in Articles 2 and 3 of Directive 2004/38/EC;

(b) nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation, the Principality of Andorra and the Republic of San Marino and their family members, irrespective of their nationality, who under agreements concluded by the Union enjoy rights of free movement equivalent to those referred to in point (a).

Chapter 2. APPLICATIONS FOR INTERNATIONAL PROTECTION AND RETURN

Article 53. Applications for International Protection

1. Subject to paragraphs 6 to 10, where a person makes an application for international protection in Gibraltar, the competent authorities of the United Kingdom, in respect of Gibraltar, shall be responsible for the examination of that application.

2. Where an application for international protection is made pursuant to paragraph 1, the applicant shall be escorted by the competent authorities of the United Kingdom, in respect of Gibraltar, to the Second Line Checks Area for the purposes of registering the application, subject to paragraph 5. The competent authorities of the United Kingdom, in respect of Gibraltar, shall immediately inform the competent authorities of the Kingdom of Spain, subject to paragraph 5.

3. Without prejudice to paragraph 1, where a person is going through the border checks carried out pursuant to Article 29, they may make an application for international protection before the competent authorities of the United Kingdom, in respect of Gibraltar or before those of the Kingdom of Spain.

4. Where a person makes an application for international protection before or during the performance of border checks carried out pursuant to Article 29, the checks shall be completed.

In the event that border checks trigger the need for follow-up action to be taken as referred to in Article 34, such action shall be taken to the extent that it respects and does not undermine the right to international protection and the principle of non-refoulement.

Where an application for international protection is made pursuant to paragraph 3, the applicant shall be escorted by the competent authorities before which they made the application to the Second Line Checks Area for the purposes of registering the application, subject to paragraph 5.

Where a person makes an application for international protection before the competent authorities of the Kingdom of Spain, the Kingdom of Spain shall be responsible for the examination of that application in accordance with Union and domestic law.

Where a person makes an application for international protection before the competent authorities of the United Kingdom, in respect of Gibraltar, the United Kingdom, in respect of Gibraltar, shall be responsible for the examination of that application in accordance with domestic law, and subject to paragraphs 6 to 10.

5. For the purposes of examining individual applications and after a final decision on the application has been taken, the competent authorities shall not:

(a) disclose information regarding individual applications for international protection, or the fact that an application has been made, to the alleged actor(s) of persecution or serious harm;

(b) obtain any information from the alleged actor(s) of persecution or serious harm in a manner that would result in such actor(s) being directly informed of the fact that an application has been made by the applicant in question, and would jeopardise the physical integrity of the applicant or their dependants, or the liberty and security of their family members still living in the country of origin.

6. Where the United Kingdom, in respect of Gibraltar, is responsible for the examination of an application for international protection, the application shall be processed in accordance with standards that are at least equivalent to those applicable in the Union with respect to eligibility criteria for and content of international protection, as well as with respect to the procedures applicable to the examination of applications for international protection and reception conditions of applicants.

7. Where the competent authorities of the Kingdom of Spain are informed of an application for international protection in accordance with paragraph 2, they may inform the competent authorities of the United Kingdom, in respect of Gibraltar, within 14 calendar days of their objection to the granting of international protection by the United Kingdom, in respect of Gibraltar. In that case, the competent authorities of the United Kingdom, in respect of Gibraltar, shall refrain from granting international protection until they have given full consideration to any information provided by the competent authorities of the Kingdom of Spain. The competent authorities of the United Kingdom, in respect of Gibraltar, shall notify the competent authorities of the Kingdom of Spain of the final decision and the reasons therefor, subject to paragraph 5.

The competent authorities of the Kingdom of Spain shall notify the competent authorities of the United Kingdom, in respect of Gibraltar, if the period of 14 calendar days referred to in the first sentence is to be extended by a maximum of 14 calendar days. The absence of a response by the expiry of that 14 calendar days period shall be considered a positive response. In any case, the competent authorities of the United Kingdom, in respect of Gibraltar, shall refrain from granting international protection before the end of the period provided in this paragraph.

8. Where the United Kingdom, in respect of Gibraltar, is responsible for the examination of an application for international protection, it shall take all necessary measures to ensure that an applicant, other than a Union citizen, is not permitted to

enter, and is prevented from entering, the territory of the Member States for the duration of the procedure for international protection and until a final decision is taken on the application.

The competent authorities of the Kingdom of Spain shall as soon as possible and no later than 72 hours after the escorting of the person to the Second Line Checks Area, take and transmit the data of persons, other than Union citizens, who have made an application for international protection pursuant to paragraph 1 and transmit that data in EURODAC.

9. Where a person is granted international protection by the United Kingdom, in respect of Gibraltar, he or she shall be issued with a residence permit, which shall have territorial validity limited to Gibraltar.

Where a final decision has been taken rejecting an application for international protection, the competent authorities of the United Kingdom, in respect of Gibraltar, shall take all necessary measures to ensure that the person concerned is removed from Gibraltar, in accordance with rules and safeguards that ensure standards equivalent to those laid down in Directive 2008/115/EC of the European Parliament and of the Council (1).

(1) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ EC L 348, 24.12.2008, p. 98, ELI: http://data.europa.eu/eli/dir/2008/115/oj).

10. Where the United Kingdom, in respect of Gibraltar, is responsible for an application of international protection and where the applicant has irregularly travelled to a Member State or a State that has concluded an agreement with the Union on the criteria and mechanisms for establishing the State responsible for examining a request for asylum, the applicant shall be returned to Gibraltar.

Chapter 3. POLICE COOPERATION

Article 54. Information Exchange

1. The objective of this Article is to ensure that the competent authorities of the Member States and of the United Kingdom, in respect of Gibraltar, are able, subject to the conditions of their domestic law and within the scope of their powers, and to the extent that this is not provided for in this Chapter and in Chapter 4 of this Title, to assist each other through the provision of relevant information for the purposes of:

(a) prevention, investigation, detection or prosecution of criminal offences, including the fight against organised crime and illegal trafficking;

(b) execution of criminal penalties;

(c) safeguarding against, and prevention of, threats to public safety; and

(d) prevention and combating of money laundering and the financing of terrorism.

2. For the purposes of this Article, a "competent authority" means a domestic police, customs or other authority that is competent under domestic law to undertake activities for the purposes set out in paragraph 1.

3. Information, including on wanted and missing persons as well as objects, may be requested by a competent authority of the United Kingdom, in respect of Gibraltar, or of a Member State, or provided spontaneously to a competent authority of the United Kingdom, in respect of Gibraltar, or of a Member State. Information may be provided in response to a request or spontaneously, subject to the conditions of the domestic law which applies to the providing competent authority and within the scope of its powers.

4. Information may be requested and provided to the extent that the conditions of the domestic law which applies to the requesting or providing competent authority do not stipulate that the request or provision of information must be made or channelled via judicial authorities.

5. In urgent cases, the providing competent authority shall respond to a request, or provide information spontaneously, as soon as possible.

6. A requesting authority of any of the Parties may, in accordance with relevant domestic law, at the time of making the request or at a later point in time, seek consent from the providing authority of any of the Parties for the information to be used for evidential purposes in proceedings before a judicial authority. The providing authority may, subject to the conditions set out in the provisions referred to in Chapter 5 of Title V of this Part and in its domestic law, consent to the

information being used for evidential purposes before a judicial authority in a Member State, where the requesting authority pertains to the latter, or in the United Kingdom, in respect of Gibraltar, where the requesting authority pertains to the latter. Equally, where information is provided spontaneously, the providing authority may consent to the information being used for evidential purposes in proceedings before a judicial authority in a Member State, where the information is provided to a competent authority of the latter, or in the United Kingdom, in respect of Gibraltar, where the information is provided to a competent authority of the latter. Where consent is not given under this paragraph, the information received shall not be used for evidential purposes in proceedings before a judicial authority.

7. The providing authority may, under relevant domestic law, impose conditions on the use of the information provided.

8. A competent authority may provide under this Article any type of information which it holds, subject to the conditions of the domestic law which applies to it and within the scope of its powers. This may include information from other sources, only if onward transfer of that information is permitted in the framework under which it was obtained by the providing competent authority.

9. Information may be provided under this Article via any appropriate communication channel, including the secure communication line for the purpose of provision of information through Europol, subject to Article 73.

10. Without prejudice to paragraph 5, all formal communications and notifications under this Article shall be performed in line with Article 6(1). This does not include communications and decisions which relate to urgent operational or logistical matters.

Article 55. Continued Surveillance

1. The competent authorities of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain who, as part of a criminal investigation, are keeping under surveillance in the Kingdom of Spain or in Gibraltar, as the case may be, a person who is presumed to have participated in a criminal offence listed in Annex 8 or a person under surveillance who can assist in identifying or tracing such a person, may continue their surveillance, in line with the relevant Schengen acquis, in Gibraltar or Spain, respectively.

2. Administrative arrangements between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall set out the practical modalities concerning the performance of the duties of the competent authorities and operational cooperation aspects relating to the continued surveillance referred to in paragraph 1.

Article 56. Uninterrupted Pursuit

1. Officers of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain who are pursuing an individual caught in the act of committing or of participating in one of the offences listed in Annex 8 may continue pursuit, in line with the relevant Schengen acquis, in Gibraltar or Spain, respectively.

The same shall apply where the person being pursued has escaped from provisional custody or while serving a sentence involving deprivation of liberty.

2. Administrative arrangements between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall set out the practical modalities concerning the performance of the duties of the competent authorities and operational cooperation aspects relating to the pursuit referred to in paragraph 1.

Article 57. Communication

1. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall install and keep in place, communication lines and other direct links to facilitate police and customs cooperation between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain, in particular for the timely transmission of information for the purposes of continued surveillance and uninterrupted pursuit.

2. In addition, the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall consider further possibilities for enhancing direct communication between their police and customs services. The details of such arrangements shall be laid down bilaterally.

Article 58. Joint Operations

1. In order to step up police cooperation, the competent authorities of the Union and the Member States, on the one side,

and of the United Kingdom, in respect of Gibraltar, on the other side, may, in maintaining public order and security and preventing criminal offences, introduce joint patrols and other joint operations in which designated officers or other officials from either side participate in operations within the Member States or in Gibraltar, as the case may be.

2. The Union in respect of its Member States and the United Kingdom, in respect of Gibraltar, shall submit declarations regarding competent authorities for the purpose of this Article and laying down the conditions for and practical aspects of the cooperation in line with Union law. Such conditions shall inter alia specify whether the designated officers or other officials referred to in paragraph 1 may exercise executive powers, the responsibility for actions committed by the seconding side's officers, as well as the applicable law.

3. Any joint operation, including where it takes the form of a joint patrol, that takes place within the territory of a Member State or within the territory of Gibraltar shall be explicitly authorised, prior to the joint operation, respectively by that Member State or the United Kingdom, in respect of Gibraltar, who shall also take part in it.

Article 59. Relevant Databases

1. The Union shall ensure that the designated officers or other officials of the United Kingdom, in respect of Gibraltar, participating in joint operations as referred to in Article 58, may consult their own relevant domestic and international databases, as permitted under the law of the United Kingdom, in respect of Gibraltar, during a joint operation in a Member State.

2. The United Kingdom, in respect of Gibraltar, shall ensure that officers of Member States participating in joint operations as referred to in Article 58, may consult their own relevant national, Union and international databases, as permitted under their domestic law, during a joint operation in Gibraltar.

Article 60. Protection and Assistance During Joint Operation

The Member States participating in a joint operation and the United Kingdom, in respect of Gibraltar, shall be required to provide each other's officers participating that joint operation within their territory in accordance with Article 58 with the same protection and assistance in the course of those officers' duties as for their own officers.

Article 61. Passenger Name Record Data

The United Kingdom, in respect of Gibraltar, shall ensure that carriers transfer Passenger Name Record (PNR) data concerning flights arriving in Gibraltar to the competent authorities of the Kingdom of Spain. Such transfers shall comply with the requirements of Directive (EU) 2016/681 of the European Parliament and of the Council (1).

(1) Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime (OJ EU L 119, 4.5.2016, p. 132, ELI: http://data.europa.eu/eli/dir/2016/681/oj)

Article 19 shall apply.

Article 62. Enhanced Police Checks

1. Where necessary, on the basis of a risk assessment, in order to prevent criminal offences and irregular migration, the competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall perform enhanced police checks in Gibraltar and in the contiguous frontier zone, respectively.

2. Enhanced police checks as referred to in paragraph 1 may take the form of joint operations in accordance with Article 58.

Article 63. Applicable Provisions of Union Law

The provisions of Union law listed in Annex 9 to this Agreement shall apply to the United Kingdom, in respect of Gibraltar, and in Gibraltar.

Article 19 shall apply.

Title IV. IMPLEMENTATION, APPLICATION, EVALUATION AND ENFORCEMENT

Article 64. Schengen Evaluations

The United Kingdom, in respect of Gibraltar, shall admit Union and Member State representatives and experts designated by Union agencies conducting evaluations of the application of the Schengen acquis by Spain pursuant to this Part. The United Kingdom, in respect of Gibraltar, shall assist and facilitate such representatives to exercise their tasks, as set out in Council Regulation (EU) 2022/922 (1) including, but not limited, to visiting and inspecting infrastructure located in Gibraltar.

(1) Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) No 1053/2013 (OJ EU L 160, 15.6.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/922/oj).

The Kingdom of Spain shall, as soon as it receives a notification for such visits pursuant to Article 19(3) and (4) of Council Regulation (EU) 2022/922, inform the United Kingdom, in respect of Gibraltar.

Article 65. Evaluation of the Implementation

The Specialised Committee on the Circulation of Persons shall complete an evaluation of the implementation of this Part, including the administrative arrangements referred to in Article 33(5) at the latest 4 years after this Part of the Agreement coming into effect. By that time, the Specialised Committee on the Circulation of Persons shall, following consultations, address a report on the evaluation to the Cooperation Council which shall include an assessment of the administrative arrangements set out in Article 33(5). That report shall set out the common assessment of the representatives of the Parties or, in the alternative, the assessment of the representatives of each Party.

Article 66. Termination of the Agreement after the Evaluation of the Implementation

1. Following completion of the evaluation referred to in Article 65 and without prejudice to Article 334, the Union, including at the request of the Kingdom of Spain, and the United Kingdom may terminate this Agreement by written notification through diplomatic channels. This Agreement and any supplementing agreement shall cease to be in force on the first day of the twelfth month following the date of notification.

2. Where the Kingdom of Spain has requested the Union to terminate this Agreement, in accordance with paragraph 1, the Union will proceed to such termination.

Article 67. Suspension of Obligations

1. Notwithstanding Article 334, and with full respect of the exercise of the responsibilities incumbent upon the Parties with regard to law and order, the safeguarding of internal security and the management of their section of the external borders, in case of serious non-respect of commitments under this Part, or where either Party considers that it is exposed to a serious and persistent threat to internal security due to the absence of controls between the Union and Gibraltar, either Party, after consultations with each other, may temporarily suspend the implementation of its obligations under Titles I to V of this Part. The Union will take the opinion of the Kingdom of Spain duly into account.

2. Where either Party intends to suspend its obligations in accordance with paragraph 1, it shall without delay notify the other, through the Cooperation Council. Such notification shall indicate the period for which the Party intends the temporary suspension of its obligations to apply. The temporary suspension of the Party's obligations shall take effect on the eighth day of the notification or on any later date as specified therein. On this basis, the Member States and the United Kingdom, in respect of Gibraltar, shall reinstate border control between the Union and Gibraltar.

Article 68. Notifications, Declarations, Reservations and Designations

1. By the date of the entry into force of this Agreement, the Kingdom of Spain and the United Kingdom, in respect of Gibraltar, shall make the notifications and designations provided for in Articles 50(9) and 51(10).

2. By that same date, the Union in respect of the Member States, and the United Kingdom, in respect of Gibraltar, shall make declarations referred to in Article 58(2).

3. By the date of the entry into force of this Agreement, the Union and the United Kingdom, in respect of Gibraltar, shall make any of the notifications provided for in Article 121(2), Article 122(2) and Article 130(4).

4. To the extent that such notification has not been made, at the point in time referred to in the first paragraph, notifications may be made as soon as possible and at the latest two months after the entry into force of this Agreement.

5. During that interim period, any Member State or the United Kingdom, in respect of Gibraltar, in relation to which no notification provided for in Articles 121(2), 122(2) and 130(4) has been made, and which has not been the subject of an indication that no such notification is to be made, may avail itself of the possibilities provided for in that Article as if such a notification had been made in respect of that Member State or the United Kingdom, in respect of Gibraltar. In the case of Article 122(2), a Member State or the United Kingdom, in respect of Gibraltar, may only avail itself of the possibilities provided for in that Article to the extent that to do so is compatible with the criteria for making a notification.

5. The notifications provided for in the following provisions may be made at any time:

(a) Article 118(4);

(b) Article 124(1);

(c) Article 125(2);

(d) Article 144(1);

(e) Article 145(1);

(f) Article 165(4);

(g) Article 166(5);

(h) Article 167(5);

(i) Article 176(2); and

(j) Article 184(3) and (7).

6. The notifications and declarations provided for in the following provisions may be modified at any time:

(a) Article 58(2);

(b) Article 124(1);

(c) Article 125(2); and

(d) Article 184(3) and (7).

7. The notifications provided for in the following provisions may be withdrawn at any time:

(a) Article 121(2);

(b) Article 122(2);

(c) Article 124(1);

(d) Article 130(4);

(e) Article 165(4);

(f) Article 166(5); and

(g) Article 167(5)

8. By the date of entry into force of this Agreement, the United Kingdom, in respect of Gibraltar shall notify the Union of the identity of the following authorities:

(a) the authority considered as the competent authority for the purposes of Chapter 1 of Title V of this Part as referred to in point (b) of Article 74 and a short description of its competences;

(b) the authority considered as the competent authority for the purposes of Chapter 2 of Title V of this Part, as referred to in Point (b) of Article 90, and a short description of its competences;

(c) the authority competent by virtue of the domestic law of the United Kingdom, in respect of Gibraltar, to execute an arrest

warrant as referred to in point (c) of Article 117;

(d) the authority competent by virtue of the domestic law of the United Kingdom, in respect of Gibraltar, to issue an arrest warrant as referred to in point (d) of Article 117;

(e) the authority under Article 142; and

(f) the authority notified under Article 182.

9. By the date of entry into force of this Agreement, the Union shall, on its behalf or on behalf of its Member States, as the case may be, notify the United Kingdom, of the identity of the following authorities:

(a) the authority competent by virtue of the domestic law of each Member State to execute an arrest warrant as referred to in point (c) of Article 117;

(b) the authority competent by virtue of the domestic law of each Member State to issue an arrest warrant as referred to in point (d) of Article 117;

(c) the authority for each Member State under Article 142;

(d) the Union body referred to in Article 153;

(e) the central authority for each Member State under Article 182(1); and

(f) any Union body notified under the first sentence of Article 182(3) and whether it is also designated as a central authority under the last sentence of that paragraph.

10. Where the Union makes a notification or declaration referred to in this Article, it shall indicate to which of its Member States the notification or declaration applies or whether it is making the notification or declaration on its own behalf.

11. The Union, Spain and the United Kingdom, in respect of Gibraltar, may notify more than one authority with respect to paragraphs 2, 7 and 8, as the case may be, and may limit such notifications for particular purposes only.

12. The notifications referred to in paragraphs 7 and 8 may be modified at any time.

13. All notifications, declarations, reservations and designations referred to in this Article shall be made through the mechanism established in accordance with Article 19.

Article 69. Security Exception

Nothing in Titles I to IV of this Part shall prevent the Parties or the Member States from taking measures necessary to safeguard their national security.

Title V. LAW ENFORCEMENT AND JUDICIAL COOPERATION

Article 70. Objective

1. The objective of this Title is to provide for law enforcement and judicial cooperation between the Member States and Union institutions, bodies, offices and agencies, on the one side, and the United Kingdom, in respect of Gibraltar, on the other side, in relation to the prevention, investigation, detection and prosecution of criminal offences and the prevention of and fight against money laundering and financing of terrorism.

2. This Title only applies to law enforcement and judicial cooperation in criminal matters taking place exclusively between the Union and the Member States, on the one side, and the United Kingdom, in respect of Gibraltar, on the other side. It does not apply to situations arising between the Member States, or between Member States and Union institutions, bodies, offices and agencies, nor does it apply to the activities of authorities with responsibilities for safeguarding national security when acting in that field.

Article 71. Scope of Cooperation Where a Member State No Longer Participates In Analogous Measures Under Union Law

1. This Article applies if a Member State ceases to participate in, or enjoy rights under, provisions of Union law relating to law enforcement and judicial cooperation in criminal matters analogous to any of the relevant provisions of this Title.

2. The United Kingdom, in respect of Gibraltar, may notify the Union in writing of its intention to cease to operate the relevant provisions of this Part in relation to that Member State.

3. A notification given under paragraph 2 takes effect on the date specified therein, which shall be no earlier than the date on which the Member State ceases to participate in, or to enjoy rights under, the provisions of Union law referred to in paragraph 1.

Chapter 1. COOPERATION WITH EUROPOL

Article 72. Objective

The objective of this Chapter is to establish cooperative relations between Europol and the competent authorities of the United Kingdom, in respect of Gibraltar, in order to support and strengthen the action by the Member States and the United Kingdom, in respect of Gibraltar, as well as their mutual cooperation in preventing and combating serious crime, terrorism and forms of crime which affect a common interest covered by a Union policy, as referred to in Article 75.

Article 73. Communication

All communications and notifications referred to in this Chapter shall be performed through the national contact point as set out in Article 77(1) or liaison officers as set out in Articles 77(4) of the United Kingdom to Europol except where Article 77(2) applies.

Article 74. Definitions

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

(a) "competent authority" means, for the Union, Europol and, for the United Kingdom, in respect of Gibraltar, a domestic law enforcement authority, responsible under domestic law for preventing and combating criminal offences in Gibraltar;

(b) "Europol" means the European Union Agency for Law Enforcement Cooperation, set up under Regulation (EU) 2016/794 of the European Parliament and of the Council (1) (the "Europol Regulation").

(1) Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ EU L 135, 24.5.2016, p. 53, ELI: http://data.europa.eu/eli/reg/2016/794/oj).

Article 75. Forms of Crime

1. The cooperation established under this Chapter relates to the forms of crime within Europol's competence, as listed in Annex 10, including related criminal offences.

2. Related criminal offences are criminal offences committed in order to procure the means of committing the forms of crime referred to in paragraph 1, criminal offences committed in order to facilitate or carry out such crimes, and criminal offences committed to ensure impunity for such crimes.

3. Where the list of forms of crime for which Europol is competent under Union law is changed, the Specialised Committee on Circulation of Persons may, upon a proposal from the Union, amend Annex 10 accordingly from the date when the change to Europol's competence enters into effect.

Article 76. Scope of Cooperation

The cooperation may, in addition to the exchange of personal data under the conditions laid down in this Chapter and in accordance with the tasks of Europol as defined in the Europol Regulation, in particular include:

a) the exchange of information such as specialist knowledge;

b) general situation reports;

c) results of strategic analysis;

d) information on criminal investigation procedures;

e) information on crime prevention methods;

f) participation in training activities; and

g) the provision of advice and support in individual criminal investigations as well as operational cooperation.

Article 77. National Contact Point and Liaison Officers

1. The national contact point of the United Kingdom to Europol, designated pursuant to Article 568(1) of the Trade and Cooperation Agreement, shall act as the central point of contact between Europol and the competent authorities of the United Kingdom, in respect of Gibraltar.

2. The exchange of information and notifications between Europol and the competent authorities of the United Kingdom, in respect of Gibraltar, shall, except where direct exchange of information is necessary in urgent cases and is considered appropriate by both Europol and the relevant competent authority of the United Kingdom, in respect of Gibraltar, take place between Europol and the national contact point referred to in paragraph 1.

3. The national contact point referred to in paragraph 1 shall also be the central point of contact in respect of review, correction and deletion of personal data.

4. Liaison officers seconded by the United Kingdom to Europol, pursuant to Article 568(4) of the Trade and Cooperation Agreement, may also facilitate the cooperation established under this Chapter with regard to the United Kingdom, in respect of Gibraltar. A liaison officer seconded by Europol to the United Kingdom may also facilitate the cooperation with regard to the United Kingdom, in respect of Gibraltar.

5. The United Kingdom shall ensure that the liaison officers referred to in paragraph 4 have speedy access to the relevant domestic databases of the United Kingdom, in respect of Gibraltar, that are necessary for them to fulfil their tasks.

6. The details of the tasks of the liaison officers responsible for Gibraltar, as referred to in paragraph 4, their rights and obligations and the costs involved shall be governed by working arrangements concluded between Europol and the competent authorities of the United Kingdom, in respect of Gibraltar, as referred to in Article 86.

7. The liaison officers responsible for Gibraltar, as referred to in paragraph 4, and representatives of the competent authorities of the United Kingdom, in respect of Gibraltar, may be invited to operational meetings. Member State liaison officers and third-country liaison officers, representatives of competent authorities from the Member States and third countries, Europol staff and other stakeholders may attend meetings organised by the liaison officers responsible for Gibraltar, as referred to in paragraph 4, or the competent authorities of the United Kingdom, in respect of Gibraltar.

Article 78. Exchanges of Information

1. Exchanges of information between the competent authorities shall comply with the objective and provisions of this Chapter. Personal data shall be processed only for the specific purposes referred to in paragraph 2.

2. The competent authorities shall clearly indicate, at the latest at the moment of transferring personal data, the specific purpose or purposes for which the personal data are being transferred. For transfers to Europol, the purpose or purposes of such transfer shall be specified in line with the specific purposes of processing set out in the Europol Regulation. If the transferring competent authority has not done so, the receiving competent authority, in agreement with the transferring authority, shall process the personal data in order to determine their relevance as well as the purpose or purposes for which it is to be further processed. The competent authorities may process personal data for a purpose other than the purpose for which they have been provided only if authorised to do so by the transferring competent authority.

3. The competent authorities receiving the personal data shall give an undertaking stating that such data will be processed only for the purpose for which they were transferred. The personal data shall be deleted as soon as they are no longer necessary for the purpose for which they were transferred.

4. Europol and the competent authorities of the United Kingdom, in respect of Gibraltar, shall determine without undue delay, and in any event no later than six months after receipt of the personal data, if and to what extent those personal data are necessary for the purpose for which they were transferred and inform the transferring authority accordingly.

Article 79. Restrictions on Access to and Further Use of Transferred Personal Data

1. The transferring competent authority may indicate, when transferring personal data, any restriction on access thereto or the use to be made thereof, in general or specific terms, including as regards their onward transfer, erasure or destruction after a certain period of time, or its further processing. Where the need for such restrictions becomes apparent after the personal data have been transferred, the transferring competent authority shall inform the receiving competent authority accordingly.

2. The receiving competent authority shall comply with any restriction on access or further use of the personal data indicated by the transferring competent authority as described in paragraph 1.

3. Each Party shall ensure that information transferred under this Chapter was collected, stored and transferred in accordance with its respective legal framework. Each Party shall ensure, as far as possible, that such information has not been obtained in violation of human rights. Nor shall such information be transferred if, to the extent reasonably foreseeable, it could be used to request, hand down or execute a death penalty or any form of cruel or inhuman treatment.

Article 80. Different Categories of Data Subjects

1. The transfer of personal data in respect of victims of a criminal offence, witnesses or other persons who can provide information concerning criminal offences, or in respect of persons under the age of 18, shall be prohibited unless such transfer is strictly necessary and proportionate in individual cases for preventing or combating a criminal offence.

2. The United Kingdom, in respect of Gibraltar, and Europol shall each ensure that the processing of personal data under paragraph 1 is subject to additional safeguards, including restrictions on access, additional security measures and limitations on onward transfers.

Article 81. Facilitation of Flow of Personal Data between the United Kingdom, In Respect of Gibraltar, and Europol

In the interest of mutual operational benefits, the Parties shall endeavour to cooperate in the future with a view to ensuring that data exchanges between Europol and the competent authorities of the United Kingdom, in respect of Gibraltar, can take place as quickly as possible, and to consider the incorporation of any new processes and technical developments which might assist with that objective, while taking account of the fact that the United Kingdom is not a Member State and in full respect of the notifications and communications regime established under Article 73.

Article 82. Assessment of Reliability of the Source and Accuracy of Information

1. The competent authorities shall indicate as far as possible, at the latest when transferring the information, the reliability of the source of the information on the basis of the following criteria:

(a) where there is no doubt as to the authenticity, trustworthiness and competence of the source, or if the information is provided by a source which has proved to be reliable in all instances;

(b) where the information is provided by a source which has in most instances proved to be reliable;

(c) where the information is provided by a source which has in most instances proved to be unreliable;

(d) where the reliability of the information cannot be assessed.

2. The competent authorities shall indicate as far as possible, at the latest when transferring the information, the accuracy of the information on the basis of the following criteria:

(a) information the accuracy of which is not in doubt;

(b) information known personally to the source but not known personally to the official passing it on;

(c) information not known personally to the source but corroborated by other information already recorded;

(d) information not known personally to the source and which cannot be corroborated.

3. Where the receiving competent authority, on the basis of information already in its possession, comes to the conclusion that the assessment of information or of its source supplied by the transferring competent authority in accordance with paragraphs 1 and 2 needs correction, it shall inform that competent authority and shall attempt to agree on an amendment to the assessment. The receiving competent authority shall not change the assessment of information received or of its source without such agreement.

4. If a competent authority receives information without an assessment, it shall attempt as far as possible and where possible in agreement with the transferring competent authority to assess the reliability of the source or the accuracy of the information on the basis of information already in its possession.

5. If no reliable assessment can be made, the information shall be evaluated as provided for in point (d) of paragraph 1 and point (d) of paragraph 2.

Article 83. Security of the Information Exchange

1. The technical and organisational measures put in place to ensure the security of the information exchange under this Chapter shall be laid down in administrative arrangements as referred to in Article 86.

2. The Parties agree on the establishment, implementation and operation of secure communication lines for the purpose of the exchange of information under this Chapter.

3. Administrative arrangements as referred to in Article 85 shall regulate the secure communication lines terms and conditions of use.

Article 84. Liability for Unauthorised or Incorrect Personal Data Processing

1. The competent authorities shall be liable, in accordance with their respective legal frameworks, for any damage caused to an individual as a result of legal or factual errors in information exchanged. In order to avoid liability under their respective legal frameworks vis-à-vis an injured party, neither Europol nor the competent authorities of the United Kingdom, in respect of Gibraltar, may plead that the other competent authority had transferred inaccurate information.

2. If damages are awarded either against Europol or against the competent authorities of the United Kingdom, in respect of Gibraltar, because of the use by either of them of information which was erroneously communicated by the other, or communicated as a result of a failure on the part of the other to comply with their obligations, the amount paid as compensation under paragraph 1 either by Europol or by the competent authorities of the United Kingdom, in respect of Gibraltar, shall be repaid by the other, unless the information was used in breach of this Chapter.

3. Europol and the competent authorities of the United Kingdom, in respect of Gibraltar, shall not require each other to pay for punitive or non-compensatory damages under paragraphs 1 and 2.

Article 85. Exchange of Classified and Sensitive Non-classified Information

The exchange and protection of classified and sensitive non-classified information, if necessary under this Chapter, shall be regulated in working and administrative arrangements as referred to in Article 86.

Article 86. Working and Administrative Arrangements

1. The details of cooperation between the United Kingdom, in respect of Gibraltar, and Europol, as appropriate to complement and implement the provisions of this Chapter, shall be the subject of working arrangements in accordance with Article 23(4) of the Europol Regulation and administrative arrangements in accordance with Article 25(1) of the Europol Regulation concluded between Europol and the competent authorities of the United Kingdom.

2. In lieu of concluding working and administrative arrangements pursuant to paragraph 1, the competent authorities of the United Kingdom and Europol may agree that any existing working or administrative arrangement concluded between the competent authorities of the United Kingdom and Europol pursuant to Article 577 of the Trade and Cooperation Agreement shall also apply in respect of Gibraltar.

3. The substance of working and administrative arrangements may be set out together in one document.

Article 87. Notification of Implementation

1. The United Kingdom, in respect of Gibraltar, and Europol shall each make publicly available a document setting out in an intelligible form the provisions regarding the processing of personal data transferred under this Chapter including the means available for the exercise of the rights of data subjects, and shall each ensure that a copy of that document be provided to the other.

2. Where not already in place, the United Kingdom, in respect of Gibraltar, and Europol shall adopt practical arrangements

specifying how compliance with the provisions regarding the processing of personal data will be enforced in practice. The United Kingdom, in respect of Gibraltar, and Europol shall each send a copy of those practical arrangements to the other and to the respective supervisory authorities.

Article 88. Powers of Europol

Nothing in this Chapter shall be construed as creating an obligation on Europol to cooperate with the competent authorities of the United Kingdom, in respect of Gibraltar, beyond Europol's competence as set out in the relevant Union law.

Chapter 2. COOPERATION WITH EUROJUST

Article 89. Objective

The objective of this Chapter is to establish cooperation between Eurojust and the competent authorities of the United Kingdom, in respect of Gibraltar, in combating serious crimes as referred to in Annex 11.

Article 90. Definitions

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

(a) "Assistant" means a person who may assist a National Member and the National Member's Deputy, or the Liaison Prosecutor, as referred to in the Eurojust Regulation and in Article 95(3) respectively;

(b) "College" means the College of Eurojust, as referred to in the Eurojust Regulation;

(c) "competent authority" means, for the Union, Eurojust, represented by the College or a National Member and, for the United Kingdom, in respect of Gibraltar, a domestic authority with responsibilities under domestic law relating to the investigation and prosecution of criminal offences in Gibraltar;

(d) "Domestic Correspondent for Terrorism Matters" means the contact point designated by the United Kingdom in accordance with Article 94, responsible for handling correspondence related to terrorism matters;

(e) "Eurojust" means the European Union Agency for Criminal Justice Cooperation, set up under Regulation (EU) 2018/1727 of the European Parliament and of the Council (1) (the "Eurojust Regulation");

(1) Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ EU L 295, 21.11.2018, p. 138, ELI: http://data.europa.eu/eli/reg/2018/1727/oj).

(f) "Liaison Magistrate" means the magistrate posted by Eurojust to the United Kingdom in accordance with Article 96;

(g) "Liaison Prosecutor" means the public prosecutor seconded by the United Kingdom to Eurojust and subject to the domestic law of the United Kingdom as regards the public prosecutor's status, in accordance with Article 95(3);

(h) "National Member" means the National Member seconded to Eurojust by each Member State, as referred to in the Eurojust Regulation.

Article 91. Communication

All communications and notifications referred to under this Chapter shall be performed through the national contact points as set out in Article 94 and the liaison prosecutors as set out in Article 95.

Article 92. Forms of Crime

1. The cooperation established under this Chapter relates to the forms of serious crime within the competence of Eurojust, as listed in Annex 11, including related criminal offences.

2. Related criminal offences are the criminal offences committed in order to procure the means of committing forms of serious crime referred to in paragraph 1, criminal offences committed in order to facilitate or commit such serious crimes, and criminal offences committed to ensure impunity for such serious crimes.

3. Where the list of forms of serious crime for which Eurojust is competent under Union law is changed, the Specialised Committee on Circulation of Persons may, upon a proposal from the Union, amend Annex 11 accordingly from the date when the change to Eurojust's competence enters into effect.

Article 94. Scope of Cooperation

The Parties shall ensure that Eurojust and the competent authorities of the United Kingdom, in respect of Gibraltar, cooperate in the fields of activity set out in Articles 2 and 54 of the Eurojust Regulation and in this Chapter.

Article 95. Contact Points to Eurojust

The contact point(s) to Eurojust, appointed or put in place by the United Kingdom pursuant to Article 584 of the Trade and Cooperation Agreement, including the contact points designated as the United Kingdom Domestic Correspondent for Terrorism Matters, shall also serve as contact point(s) to Eurojust for the United Kingdom, in respect of Gibraltar.

Article 96. Liaison Prosecutor

1. The Liaison Prosecutor and Liaison Prosecutor's Assistants of the United Kingdom to Eurojust, seconded pursuant to Article 585(1) and (3) of the Trade and Cooperation Agreement, shall facilitate the cooperation established under this Chapter, in respect of Gibraltar, within the scope of their competence. When necessary, Assistants may replace the Liaison Prosecutor or act on the Liaison Prosecutor's behalf.

2. The details of the tasks of the Liaison Prosecutor and of the Liaison Prosecutor's Assistants referred to in paragraph 1, their rights and obligations and the costs involved shall be governed by a working arrangement, as referred to in Article 104.

3. The United Kingdom shall inform Eurojust of the nature and extent of the role of the Liaison Prosecutor and the Liaison Prosecutor's Assistants, referred to in paragraph 1, in order to accomplish their tasks of facilitating cooperation in accordance with this Chapter.

4. The Liaison Prosecutor and the Liaison Prosecutor's Assistants referred to in paragraph 1 shall have access to the information contained in the domestic criminal record, or in any other register of the competent authorities of the United Kingdom, in respect of Gibraltar, in accordance with domestic law in the case of a prosecutor or person of equivalent competence.

5. The Liaison Prosecutor and the Liaison Prosecutor's Assistants referred to in paragraph 1 shall have the power to contact the competent authorities of the United Kingdom, in respect of Gibraltar, directly.

6. The working documents of the Liaison Prosecutor and the Liaison Prosecutor's Assistants referred to in paragraph 1 shall be held inviolable by Eurojust.

Article 96. Liaison Magistrate

1. The Liaison Magistrate of Eurojust posted to the United Kingdom, pursuant to Article 586(1) of the Trade and Cooperation Agreement, may facilitate judicial cooperation in respect of Gibraltar, in cases in which Eurojust provides assistance, in accordance with Article 53 of the Eurojust Regulation.

2. The details of the Liaison Magistrate's tasks referred to in paragraph 1, the Liaison Magistrate's rights and obligations and the costs involved, shall be governed by a working arrangement as referred to in Article 104.

Article 97. Operational and Strategic Meetings

1. The Liaison Prosecutor and the Liaison Prosecutor's Assistants referred to in Article 95(1) and the contact point to Eurojust referred to in Article 94 may participate in meetings with regard to strategic matters at the invitation of the President of Eurojust and in meetings with regard to operational matters with the approval of the National Members concerned.

2. National Members, their Deputies and Assistants, the Administrative Director of Eurojust and Eurojust staff may attend meetings organised by the Liaison Prosecutor and the Liaison Prosecutor's Assistants referred to in Article 95(1) and the contact point to Eurojust referred to in Article 94.

Article 98. Exchange of Non-personal Data

Eurojust and the competent authorities of the United Kingdom, in respect of Gibraltar, may exchange any non-personal data in so far as those data are relevant for the cooperation under this Chapter, and subject to any restrictions pursuant to Article 103.

Article 99. Exchange of Personal Data

1. Personal data requested and received by competent authorities under this Chapter shall be processed by them only for the objectives set out in Article 89, for the specific purposes referred to in paragraph 2 and subject to the restrictions on access or further use referred to in paragraph 3.

2. The transferring competent authority shall clearly indicate, at the latest when transferring personal data, the specific purpose or purposes for which the data are being transferred.

3. The transferring competent authority may indicate, when transferring personal data, any restriction on access thereto or the use to be made thereof, in general or specific terms, including as regards its onward transfer, erasure or destruction after a certain period of time, or its further processing. Where the need for such restrictions becomes apparent after the personal data have been provided, the transferring authority shall inform the receiving authority accordingly.

4. The receiving competent authority shall comply with any restriction on access or further use of the personal data indicated by the transferring competent authority as provided for in paragraph 3.

Article 100. Channels of Transmission

1. Information shall be exchanged, subject to paragraph 3, between the Liaison Prosecutor or the Liaison Prosecutor's Assistants referred to in Article 95(1) or, if none is appointed or otherwise available, the United Kingdom's contact point to Eurojust referred to in Article 94 and the National Members concerned or the College.

2. Eurojust and the competent authorities of the United Kingdom, in respect of Gibraltar, shall each ensure that their respective representatives are authorised to exchange information at the appropriate level and in accordance with their respective legal frameworks, and are adequately screened.

3. Information may be exchanged, where necessary in urgent cases, if Eurojust has posted a Liaison Magistrate to the United Kingdom, and where considered appropriate by both the Liaison Magistrate and the relevant competent authority, between the Liaison Magistrate and any competent authority of the United Kingdom in respect of Gibraltar; in that event, the Liaison Prosecutor as set out in Article 95(1) or the Liaison Prosecutor's Assistants shall be informed of any such information exchange.

Article 101. Onward Transfers

The competent authorities of the United Kingdom, in respect of Gibraltar, and Eurojust shall not communicate any information provided by the other to any third country or international organisation without the consent of whichever of the competent authorities of the United Kingdom, in respect of Gibraltar, or Eurojust provided the information and without appropriate safeguards regarding the protection of personal data.

Article 102. Liability for Unauthorised or Incorrect Personal Data Processing

1. The competent authorities shall be liable, in accordance with their respective legal frameworks, for any damage caused to an individual as a result of legal or factual errors in information exchanged. In order to avoid liability under their respective legal frameworks vis-à-vis an injured party, neither Eurojust nor the competent authorities of the United Kingdom, in respect of Gibraltar, may plead that the other competent authority had transferred inaccurate information.

2. If damages are awarded against any competent authority because of its use of information which was erroneously communicated by the other, or communicated as a result of a failure on the part of the other to comply with their obligations, the amount paid as compensation under paragraph 1 by the competent authority shall be repaid by the other, unless the information was used in breach of this Chapter.

3. Eurojust and the competent authorities of the United Kingdom, in respect of Gibraltar, shall not require each other to pay for punitive or non-compensatory damages under paragraphs 1 and 2.

Article 103. Exchange of Classified and Sensitive Non-classified Information

The exchange and protection of classified and sensitive non-classified information, if necessary under this Chapter, shall be regulated by a working arrangement as referred to in Article 104.

Article 104. Working Arrangement

1. The modalities of cooperation between the United Kingdom, in respect of Gibraltar, and Eurojust, as appropriate to implement the provisions of this Chapter shall be the subject of a working arrangement concluded between Eurojust and the competent authorities of the United Kingdom in accordance with Articles 47(3) and 56(3) of the Eurojust Regulation.

2. In lieu of concluding working arrangements pursuant to paragraph 1, the competent authorities of the United Kingdom and Eurojust may agree that any existing working arrangement between the competent authorities of the United Kingdom and Eurojust pursuant to Article 594 of the Trade and Cooperation Agreement shall also apply in respect of Gibraltar.

Article 105. Powers of Eurojust

Nothing in this Chapter shall be construed as creating an obligation on Eurojust to cooperate with the competent authorities of the United Kingdom, in respect of Gibraltar, beyond Eurojust's competences as set out in the relevant Union law.

Chapter 3. EXCHANGE OF CRIMINAL RECORD INFORMATION

Article 106. Objective

The objective of this Chapter is to enable the exchange between the Members States, on the one side, and the United Kingdom, in respect of Gibraltar, on the other side, of information extracted from the criminal record.

In the relations between the United Kingdom, in respect of Gibraltar, and the Member States, the provisions of this Chapter supplement the provisions of Chapter 5 of Title V of this Part with regard to the exchange of criminal record information.

Article 107. Definitions

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

(a) "conviction" means any final decision of a criminal court against a natural person in respect of a criminal offence, to the extent that the decision is entered in the criminal record of the convicting Member State or the United Kingdom, in respect of Gibraltar;

(b) "criminal proceedings" means the pre-trial stage, the trial stage and the execution of a conviction;

(c) "criminal record" means the domestic register or registers recording convictions in accordance with domestic law.

Article 108. Central Authorities

The central authorities of the United Kingdom, in respect of Gibraltar, and of the Member States competent for the exchange of information extracted from the criminal record pursuant to this Chapter and for the exchanges referred to in Article 22(2) of the European Convention on Mutual Assistance in Criminal Matters with regard to the United Kingdom, in respect of Gibraltar, shall mean those designated and notified by the United Kingdom and the Member States, pursuant to Article 645 of the Trade and Cooperation Agreement, for the exchange of information extracted from the criminal record between the United Kingdom and the Member States.

Article 109. Notifications

1. Each Member State and the United Kingdom, in respect of Gibraltar, shall take the necessary measures to ensure that all convictions handed down by its criminal courts are accompanied, when provided to its criminal record, by information on the nationality or nationalities of the convicted person.

2. The central authority of each Member State shall inform the central authority of the United Kingdom, in respect of Gibraltar, of all criminal convictions handed down by its criminal courts in respect of nationals of the United Kingdom holding a valid identity card or residence permit issued in Gibraltar by the competent authorities of the United Kingdom, in

respect of Gibraltar, as well as of any subsequent alterations or deletions of information contained in the criminal record, as entered in the criminal record. The central authority of the United Kingdom, in respect of Gibraltar, shall inform the central authority of any Member State of all criminal convictions handed down by its criminal courts in respect of nationals of that Member State, as well as of any subsequent alterations or deletions of information contained in the criminal record, as entered in the criminal record. The central authorities of the Member States and of the United Kingdom, in respect of Gibraltar, shall communicate such information to each other at least once per month.

3. If the central authority of a Member State or of the United Kingdom, in respect of Gibraltar, becomes aware of the fact that a convicted person is a national of two or more Member States or a national of one or more Member States and nationals of the United Kingdom holding a valid identity card or residence permit issued in Gibraltar, it shall transmit the relevant information to each of them, even if the convicted person is a national of the Member State within whose territory that person was convicted or a national of the United Kingdom holding a valid identity card or residence permit issued in Gibraltar, who was convicted in Gibraltar.

Article 110. Storage of Convictions

1. The central authority of each Member State and of the United Kingdom, in respect of Gibraltar, shall store all information notified under Article 109.

2. The central authority of each Member State and of the United Kingdom, in respect of Gibraltar, shall ensure that if a subsequent alteration or deletion is notified under Article 109, an identical alteration or deletion is made to the information stored in accordance with paragraph 1.

3. The central authority of each Member State and of the United Kingdom, in respect of Gibraltar, shall ensure that only information which has been updated in accordance with paragraph 2 of this Article is provided when replying to requests made under Article 111.

Article 111. Requests for Information

1. If information from the criminal record of a Member State or of the United Kingdom, in respect of Gibraltar, is requested at domestic level for the purposes of criminal proceedings against a person or for any purposes other than that of criminal proceedings, the central authority of that Member State or of the United Kingdom, in respect of Gibraltar, as the case may be, may, in accordance with its domestic law, submit to the central authority of another Member State or of the United Kingdom, in respect of Gibraltar, as the case may be, a request for information and related data to be extracted from the criminal record.

2. If a person addresses a request for information on their own criminal record to the central authority of a Member State or of the United Kingdom, in respect of Gibraltar, of which they are not a national, that central authority shall submit to the central authority of the Member State of the person's nationality or of the United Kingdom, in respect of Gibraltar, if the person is a national of the United Kingdom, a request for information and related data to be extracted from the criminal record in order to be able to include that information and related data in the extract to be provided to the person concerned.

Article 112. Replies to Requests

1. Replies to requests for information shall be transmitted by the requested central authority of a Member State and of the United Kingdom, in respect of Gibraltar, to the requesting central authority of a Member State or of the United Kingdom, in respect of Gibraltar, as soon as possible and in any event within 20 working days from the date the request was received.

2. The central authority of each Member State and of the United Kingdom, in respect of Gibraltar, shall reply to requests made for purposes other than that of criminal proceedings in accordance with its domestic law.

3. Notwithstanding paragraph 2, when replying to requests made for the purposes of recruitment for professional or organised voluntary activities involving direct and regular contacts with children, the Member State and the United Kingdom, in respect of Gibraltar, shall include information on the existence of criminal convictions for offences related to sexual abuse or sexual exploitation of children, child pornography, solicitation of children for sexual purposes, including inciting, aiding and abetting or attempting to commit any of those offences, as well as information on the existence of any disqualification from exercising activities involving direct and regular contacts with children arising from those criminal convictions.

Article 113. Channel of Communication

The exchange between Member States and the United Kingdom, in respect of Gibraltar, of information extracted from the criminal record shall take place electronically in accordance with the technical and procedural specifications laid down in Annex 12.

Article 114. Conditions for the Use of Personal Data

1. Each Member State and the United Kingdom, in respect of Gibraltar, may use personal data received in reply to its request under Article 112 only for the purposes for which they were requested.

2. If the information was requested for any purposes other than that of criminal proceedings, personal data received under Article 112 may be used by a Member State or the United Kingdom, in respect of Gibraltar, in accordance with its domestic law only within the limits specified by the requested central authority in the form set out in Chapter 2 of Annex 12.

3. Notwithstanding paragraphs 1 and 2, personal data provided by a requested central authority in reply to a request under Article 112 may be used by the Member State or the United Kingdom, in respect of Gibraltar, by which the request was made to prevent an immediate and serious threat to public security.

4. Each Member State and the United Kingdom, in respect of Gibraltar, shall ensure that their central authorities do not disclose personal data notified under Article 109 to authorities in third countries unless the following conditions are met:

(a) the personal data are disclosed only on a case-by-case basis;

(b) the personal data are disclosed to authorities whose functions are directly related to the purposes for which the personal data are disclosed under point (c) of this paragraph;

(c) the personal data are disclosed only if necessary:

(i) for the purposes of criminal proceedings;

(ii) or any purposes other than that of criminal proceedings; or

(iii) to prevent an immediate and serious threat to public security;

(d) the personal data may be used by the requesting third country only for the purposes for which the information was requested and within the limits specified by the Member State or the United Kingdom, in respect of Gibraltar, as the case may be, that notified the personal data under Article 109; and

(e) the personal data are disclosed only if the central authority, having assessed all the circumstances surrounding the transfer of the personal data to the third country, concludes that appropriate safeguards exist to protect the personal data.

5. This Article does not apply to personal data obtained by a Member State or the United Kingdom, in respect of Gibraltar, as the case may be, under this Chapter and originating from that Member State or the United Kingdom, in respect of Gibraltar, as the case may be.

Chapter 4. SURRENDER

Article 115. Objective

The objective of this Chapter is to ensure that the extradition system between the Member States, on the one side, and the United Kingdom, in respect of Gibraltar, on the other side, is based on a mechanism of surrender pursuant to an arrest warrant in accordance with the terms of this Chapter.

Article 116. Principle of Proportionality

Cooperation through the arrest warrant shall be necessary and proportionate, taking into account the rights of the requested person and the interests of the victims, and having regard to the seriousness of the act, the likely penalty that would be imposed and the possibility of the Member State or the United Kingdom, in respect of Gibraltar, taking measures less coercive than the surrender of the requested person particularly with a view to avoiding unnecessarily long periods of pre-trial detention.

Article 117. Definitions

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

(a) "arrest warrant" means a judicial decision issued by a Member State or by the United Kingdom, in respect of Gibraltar, with a view to the arrest and surrender by the United Kingdom, in respect of Gibraltar, or a Member State of a requested person for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order;

(b) "executing judicial authority" means the judicial authority of the executing Member State, or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, which is competent to execute the arrest warrant by virtue of the domestic law of that Member State or of the United Kingdom, in respect of Gibraltar;

(c) "issuing judicial authority" means the judicial authority of the issuing Member State or of the United Kingdom, in respect of Gibraltar, which is competent to issue an arrest warrant by virtue of the domestic law of that Member State or of the United Kingdom, in respect of Gibraltar;

(d) "judicial authority" means an authority that is, under the domestic law of a Member State or of the United Kingdom, in respect of Gibraltar, a judge, a court or a public prosecutor; a public prosecutor is considered a judicial authority only to the extent that domestic law so provides;

(e) "third country" means a country other than a Member State or the United Kingdom or the United Kingdom, in respect of Gibraltar.

Article 118. Scope

1. An arrest warrant may be issued for acts punishable by the law of the issuing Member State or of the United Kingdom, in respect of Gibraltar, when it is the issuing actor, by a custodial sentence or a detention order for a maximum period of at least 12 months or, where a sentence has been passed or a detention order has been made, for sentences or detention orders of at least four months.

2. Without prejudice to paragraphs 3 and 4, surrender is subject to the condition that the acts for which the arrest warrant has been issued constitute an offence under the law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, whatever the constituent elements or however it is described.

3. Subject to Article 119, points (b) to (h) of Article 120(1) and Articles 121, 122 and 123, the competent authorities of the United Kingdom, in respect of Gibraltar, if it is the executing actor, or of the executing Member State shall not refuse to execute an arrest warrant issued in relation to the following behaviour where such behaviour is punishable by deprivation of liberty or a detention order of a maximum period of at least 12 months:

(a) the behaviour of any person who contributes to the commission by a group of persons acting with a common purpose of one or more offences in the field of terrorism referred to in Articles 1 and 2 of the European Convention on the Suppression of Terrorism, done at Strasbourg on 27 January 1977, or in relation to illicit trafficking in narcotic drugs and psychotropic substances, or murder, grievous bodily injury, kidnapping, illegal restraint, hostage-taking or rape, even where that person does not take part in the actual execution of the offence or offences concerned; such contribution must be intentional and made with the knowledge that the participation will contribute to the achievement of the group's criminal activities; or

(b) terrorism as defined in Annex 13.

4. The Union, acting on behalf of any of its Member States, and the United Kingdom, in respect of Gibraltar, may each notify the Specialised Committee on the Circulation of Persons that, on the basis of reciprocity, the condition of double criminality referred to in paragraph 2 will not be applied, provided that the offence on which the warrant is based is:

(a) one of the offences listed in paragraph 5, as defined by the law of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor; and

(b) punishable in the issuing Member State or in the United Kingdom, in respect of Gibraltar, if it is the issuing actor by a custodial sentence or a detention order for a maximum period of at least three years.

5. The offences referred to in paragraph 4 are:

(a) participation in a criminal organisation;

(b) terrorism as defined in Annex 13;

(c) trafficking in human beings;

(d) sexual exploitation of children and child pornography;

(e) illicit trafficking in narcotic drugs and psychotropic substances;

(f) illicit trafficking in weapons, munitions and explosives;

(g) corruption, including bribery;

(h) fraud, including that affecting the financial interests of the United Kingdom, in respect of Gibraltar, a Member State or the Union;

(i) laundering of the proceeds of crime;

(j) counterfeiting currency;

(k) computer-related crime;

(l) environmental crime, including illicit trafficking in endangered animal species and endangered plant species and varieties;

(m) facilitation of unauthorised entry and residence;

(n) murder;

(o) grievous bodily injury;

(p) illicit trade in human organs and tissue;

(q) kidnapping, illegal restraint and hostage-taking;

(r) racism and xenophobia;

(s) organised or armed robbery;

(t) illicit trafficking in cultural goods, including antiques and works of art;

(u) swindling;

(v) racketeering and extortion;

(w) counterfeiting and piracy of products;

(x) forgery of administrative documents and trafficking therein;

(y) forgery of means of payment;

(z) illicit trafficking in hormonal substances and other growth promoters;

(aa) illicit trafficking in nuclear or radioactive materials;

(bb) trafficking in stolen vehicles;

(cc) rape;

(dd) arson;

(ee) crimes within the jurisdiction of the International Criminal Court;

(ff) unlawful seizure of aircraft, ships or spacecraft; and

(gg) sabotage.

Article 119. Grounds for Mandatory Non-execution of the Arrest Warrant

The execution of the arrest warrant shall be refused:

(a) if the offence on which the arrest warrant is based is covered by an amnesty in the executing Member State or in the United Kingdom, in respect of Gibraltar, when it is the executing actor, where the competent authorities of that Member State or of the United Kingdom, in respect of Gibraltar, had jurisdiction to prosecute the offence under the criminal law of the executing Member State or the United Kingdom, in respect of Gibraltar, when it is the executing actor;

(b) if the executing judicial authority is informed that the requested person has been finally judged by a Member State or by the United Kingdom or by the United Kingdom, in respect of Gibraltar in respect of the same acts, provided that, if a penalty has been imposed, it has been enforced, is in the process of being enforced or can no longer be enforced under the law of the Member State by which the requested person has been sentenced or of the United Kingdom or of the United Kingdom, in respect of Gibraltar, where the requested person has been sentenced by any of these; or

(c) if the person who is the subject of the arrest warrant may not, owing to the person's age, be held criminally responsible for the acts on which the arrest warrant is based under the law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor.

Article 120. Other Grounds for Non-execution of the Arrest Warrant

1. The execution of the arrest warrant may be refused:

(a) if, in one of the cases referred to in Article 118(2), the act on which the arrest warrant is based does not constitute an offence under the law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor; however, in relation to taxes or duties, customs and exchange, the execution of the arrest warrant shall not be refused on the grounds that the law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes or duties, customs and exchange regulations as the law of the United Kingdom, in respect of Gibraltar, when it is the issuing actor or of the issuing Member State;

(b) if the person who is the subject of the arrest warrant is being prosecuted in the executing Member State or the United Kingdom, in respect of Gibraltar, when it is the executing actor, for the same act as that on which the arrest warrant is based;

(c) if the judicial authorities of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, have decided either not to prosecute for the offence on which the arrest warrant is based or to halt proceedings, or if a final judgment which prevents further proceedings has been passed upon the requested person in a Member State or in the United Kingdom, in respect of Gibraltar, in respect of the same acts;

(d) if the criminal prosecution or punishment of the requested person is statute-barred under the law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, and the acts fall within the jurisdiction of that Member State or of the United Kingdom, in respect of Gibraltar, under its own criminal law;

(e) if the executing judicial authority is informed that the requested person has been finally judged by a third country or the United Kingdom in respect of the same acts provided that, if a penalty has been imposed, it has been enforced, is in the process of being enforced or can no longer be enforced under the law of the sentencing country;

(f) if the arrest warrant has been issued for the purposes of execution of a custodial sentence or detention order and:

(i) if the executing actor is a Member State, the requested person is staying in, or is a national, or a resident, of that Member State; or

(ii) if the executing actor is the United Kingdom, in respect of Gibraltar, the requested person is a national of the United Kingdom holding a valid identity card or residence permit issued in Gibraltar by the competent authorities of the United Kingdom, in respect of Gibraltar or is a person staying in, or resident in, Gibraltar, and a competent authority of that Member State or of the United Kingdom, in respect of Gibraltar, undertakes to execute the sentence or detention order in accordance with the domestic law of the executing Member State or the United Kingdom, in respect of Gibraltar, when it is the executing actor; if consent of the requested person to the transfer of the sentence or detention order to the executing Member State or to the United Kingdom, in respect of Gibraltar, when it is the executing actor, is required, the competent authorities of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, may refuse to execute the arrest warrant only after the requested person consents to the transfer of the sentence or detention order;

(g) if the arrest warrant relates to offences which:

(i) are regarded by the law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, as having been committed in whole or in part in the executing Member State or in Gibraltar when the United Kingdom, in respect of Gibraltar, is the executing actor, or in a place treated as such; or

(ii) have been committed outside the issuing Member State or Gibraltar when the United Kingdom, in respect of Gibraltar, is the issuing actor, and the law of the United Kingdom, in respect of Gibraltar, when it is the executing actor or of the

executing Member State does not allow prosecution for the same offences if committed outside its territory;

(h) if there are reasons to believe on the basis of objective elements that the arrest warrant has been issued for the purpose of prosecuting or punishing a person on the grounds of the person's sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation, or that that person's position may be prejudiced for any of those reasons;

(i) if the arrest warrant has been issued for the purpose of executing a custodial sentence or a detention order and the requested person did not appear in person at the trial resulting in the decision, unless the arrest warrant states that the person, in accordance with further procedural requirements defined in the domestic law of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor:

(i) in due time:

(A) either was summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the decision, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that the person was aware of the date and place of the scheduled trial; and

(B) was informed that a decision may be handed down if that person did not appear for the trial; or

(ii) being aware of the date and place of the scheduled trial, had given a mandate to a lawyer, who was either appointed by the person concerned or by a competent authority of the Member State or of the United Kingdom, in respect of Gibraltar, to defend them at the trial, and was indeed defended by that lawyer at the trial; or

(iii) after being served with the decision and being expressly informed about the right to a retrial or appeal in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed:

(A) expressly stated that the person did not contest the decision; or

(B) did not request a retrial or appeal within the applicable time frame; or

(iv) was not personally served with the decision but:

(A) will be personally served with it without delay after the surrender and will be expressly informed of the right to a retrial or appeal in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed; and

(B) will be informed of the time frame within which the person has to request such a retrial or appeal, as mentioned in the relevant arrest warrant.

2. Where the arrest warrant is issued for the purpose of executing a custodial sentence or detention order under the conditions in point (i) (iv) of paragraph 1 and the person concerned has not previously received any official information about the existence of the criminal proceedings against them, that person may, when being informed about the content of the arrest warrant, request to receive a copy of the judgment before being surrendered. Immediately after having been informed about the request, the issuing authority shall provide the copy of the judgment via the executing authority to the person concerned. The request of the person concerned shall neither delay the surrender procedure nor delay the decision to execute the arrest warrant. The provision of the judgment to the person concerned shall be for information purposes only; it shall not be regarded as a formal service of the judgment nor actuate any time limits applicable for requesting a retrial or appeal.

3. Where a person is surrendered under the conditions in point (i) (iv) of paragraph 1 and that person has requested a retrial or appeal, until those proceedings are finalised the detention of that person awaiting such retrial or appeal shall be reviewed in accordance with the domestic law of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor, either on a regular basis or upon request of the person concerned. Such a review shall in particular include the possibility of suspension or interruption of the detention. The retrial or appeal shall begin within due time after the surrender.

Article 121. Political Offence Exception

1. The execution of an arrest warrant may not be refused on the grounds that the offence may be regarded by the competent authorities of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, as a political offence, as an offence connected with a political offence or as an offence inspired by political motives.

2. However, the United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on the Circulation of Persons that paragraph 1 will be applied only in relation to:

(a) the offences referred to in Articles 1 and 2 of the European Convention on the Suppression of Terrorism;

(b) offences of conspiracy or association to commit one or more of the offences referred to in Articles 1 and 2 of the European Convention on the Suppression of Terrorism, if those offences of conspiracy or association correspond to the description of behaviour referred to in Article 118(3) of this Agreement; and

(c) terrorism as defined in Annex 13.

3. Where an arrest warrant has been issued by a Member State on behalf of which a notification as referred to in paragraph 2 has been made or where an arrest warrant has been issued by the United Kingdom, in respect of Gibraltar, and where the latter has made such notification, the United Kingdom, in respect of Gibraltar, when it is the executing actor, or the executing Member State may apply reciprocity.

Article 122. Nationality Exception

1. The execution of an arrest warrant may not be refused on the grounds that the requested person is a national of the executing Member State or, where the executing actor is the United Kingdom, in respect of Gibraltar, a national of the United Kingdom.

2. The United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on the Circulation of Persons that the United Kingdom's own nationals or that Member State's own nationals, as the case may be, will not be surrendered or that their surrender will be authorised only under certain specified conditions. The notification shall be based on reasons related to the fundamental principles or practice of the domestic legal order of the United Kingdom, in respect of Gibraltar, or the Member State on behalf of which a notification was made. In such a case, the Union, on behalf of any of its Member States or the United Kingdom, in respect of Gibraltar, as the case may be, may notify the Specialised Committee on the Circulation of Persons within a reasonable time after the receipt of the other Party's notification that the executing judicial authorities of the Member State or of the United Kingdom, in respect of Gibraltar, as the case may be, may refuse to surrender own nationals as referred to in paragraph 1 to that Member State or the United Kingdom, in respect of Gibraltar, or that surrender shall be authorised only under certain specified conditions.

3. In circumstances where a Member State or the United Kingdom, in respect of Gibraltar, has refused to execute an arrest warrant on the basis that, in the case of the United Kingdom, in respect of Gibraltar, the United Kingdom has made a notification or, in the case of a Member State, the Union has made a notification on its behalf, as referred to in paragraph 2, the competent authorities of that Member State or of the United Kingdom, in respect of Gibraltar, shall consider instituting proceedings against the national of the United Kingdom or the Member State, as the case may be, which are commensurate with the subject matter of the arrest warrant, having taken into account the views of the competent authorities of the United Kingdom, in respect of Gibraltar, if it is the issuing actor or of the issuing Member State. In circumstances where a judicial authority decides not to institute such proceedings, the victim of the offence on which the arrest warrant is based shall be able to receive information on the decision in accordance with the applicable domestic law.

4. Where, in accordance with paragraph 3, the competent authorities of a Member State or of the United Kingdom, in respect of Gibraltar, institute proceedings against own nationals as referred to in paragraph 1, the competent authorities of that Member State or of the United Kingdom, in respect of Gibraltar, shall be able to take appropriate measures to assist the victims and witnesses, particularly with regard to the way in which the proceedings are conducted, in the following circumstances:

(a) where proceedings are being instituted in a Member State, where they are persons resident in the United Kingdom or in Gibraltar or in another Member State;

(b) where proceedings are being instituted in the United Kingdom, in respect of Gibraltar, where they are residents of a Member State.

Article 123. Guarantees to Be Given by the Competent Authorities of the Issuing Member State or of the United Kingdom, In Respect of Gibraltar, If It Is the Issuing Actor In Particular Cases

1. The execution of the arrest warrant by the executing judicial authority may be subject to the following guarantees:

(a) if the offence on which the arrest warrant is based is punishable by a custodial life sentence or a lifetime detention order in the issuing Member State or in the United Kingdom, in respect of Gibraltar, if it is the issuing actor, the competent authorities of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, may make the execution of the arrest warrant subject to the condition that the competent authorities of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor, give a guarantee deemed sufficient by the competent authorities of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, that the competent authorities of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor, will review the penalty or measure imposed, on request or at the latest after 20 years, or will encourage the application of measures of clemency for which the person is entitled to apply under the law or practice of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor, aiming at the non-execution of such penalty or measure;

(b) if a person who is the subject of an arrest warrant for the purposes of prosecution is a national or resident of the executing Member State or, where the executing actor is the United Kingdom, in respect of Gibraltar, a national of the United Kingdom or a person resident in Gibraltar, the surrender of that person may be subject to the condition that the person, after being heard, is returned to the executing Member State or to Gibraltar when the United Kingdom, in respect of Gibraltar, is the executing actor, in order to serve there the custodial sentence or detention order passed against them in the issuing Member State or in Gibraltar when the issuing actor is the United Kingdom, in respect of Gibraltar; if the consent of the requested person to the transfer of the sentence or detention order to the executing Member State or to Gibraltar when the United Kingdom, in respect of Gibraltar, is the executing actor, is required, the guarantee that the person be returned to the executing Member State or to Gibraltar when the United Kingdom, in respect of Gibraltar, is the executing actor, to serve the person's sentence is subject to the condition that the requested person, after being heard, consents to be returned to the executing Member State or to Gibraltar when the United Kingdom, in respect of Gibraltar, is the executing actor;

(c) if there are substantial grounds for believing that there is a real risk to the protection of the fundamental rights of the requested person, the executing judicial authority may require, as appropriate, additional guarantees as to the treatment of the requested person after the person's surrender before it decides whether to execute the arrest warrant.

2. The Specialised Committee on the Circulation of persons shall have the power to adopt any modifications to this Article as may be necessary to reflect changes made in the Trade and Cooperation Agreement.

Article 124. Recourse to the Central Authority

1. The United Kingdom, in respect of Gibraltar, shall notify the Specialised Committee on the Circulation of Persons of the central authority of the United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States, may notify the Specialised Committee on the Circulation of Persons of the central authority for each Member State having designated such an authority, or, if the legal system of the relevant Member State or of the United Kingdom, in respect of Gibraltar, so provides, of more than one central authority to assist the competent judicial authorities.

2. When notifying the Specialised Committee on the Circulation of Persons under paragraph 1, the United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States, may each indicate that, as a result of the organisation of the internal judicial system of the relevant Member State or the United Kingdom, in respect of Gibraltar, the central authority or central authorities are responsible for the administrative transmission and receipt of arrest warrants, as well as for all other official correspondence relating to the administrative transmission and receipt of arrest warrants. Such transmission of arrest warrants shall be made in accordance with Article 126 and, accordingly, Article 6(1). Such indication shall be binding upon all the authorities of the issuing Member State or the United Kingdom, in respect of Gibraltar, where it is the issuing actor.

Article 125. Content and Form of the Arrest Warrant

1. The arrest warrant shall contain the following information set out in accordance with the form contained in Annex 14:

(a) the identity and nationality of the requested person;

(b) the name, address, telephone and fax numbers and e-mail address of the issuing judicial authority;

(c) evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect that falls within the scope of Article 118;

(d) the nature and legal classification of the offence, particularly in respect of Article 118;

(e) a description of the circumstances in which the offence was committed, including the time, place and degree of participation in the offence by the requested person;

(f) the penalty imposed, if there is a final judgment, or the prescribed scale of penalties for the offence under the law of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor; and

(g) if possible, other consequences of the offence.

2. The Specialised Committee on the Circulation of Persons may amend the form referred to in Annex 14 as may be necessary.

The Specialised Committee on the Circulation of Persons shall adopt any modifications to the form in Annex 14 as may be necessary to reflect changes made to Annex 43 of the Trade and Cooperation Agreement.

3. The arrest warrant shall be translated into the official language or one of the official languages of the executing Member State or into English when the United Kingdom, in respect of Gibraltar, is the executing actor. The Union, acting on behalf of any of its Member States, may notify the Specialised Committee on the Circulation of Persons that a translation in one or more other official languages of a Member State will be accepted.

Article 126. Transmission of an Arrest Warrant

1. Article 6(1) shall apply only in relation to initial transmission of the arrest warrant, which shall be transmitted in accordance with that Article and the provisions of this Chapter.

2. If the location of the requested person is known, the issuing judicial authority may transmit, in accordance with Article 6(1), the arrest warrant to the competent authority of the executing Member State, or the United Kingdom, in respect of Gibraltar, when it is the executing actor, allowing that authority to establish the authenticity of the arrest warrant.

Article 127. Detailed Procedures for Transmitting an Arrest Warrant

1. If the issuing judicial authority does not know which authority is the competent executing judicial authority, it shall make the requisite enquiries in order to obtain that information from the competent authorities of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor.

2. As an alternative to Article 126, the issuing judicial authority may request the International Criminal Police Organisation ("Interpol") to transmit an arrest warrant.

3. All difficulties concerning the transmission or the authenticity of any document needed for the execution of the arrest warrant shall be dealt with by direct contacts between the judicial authorities involved, or, where appropriate, with the involvement of the central authorities of the Member States and the United Kingdom, in respect of Gibraltar.

4. If the authority which receives an arrest warrant is not competent to act upon it, it shall automatically forward the arrest warrant to the competent authority in the executing Member State or the United Kingdom, in respect of Gibraltar, where it is the executing actor, and shall inform the issuing judicial authority accordingly.

Article 128. Rights of a Requested Person

1. If a requested person is arrested for the purpose of the execution of an arrest warrant, the executing judicial authority, in accordance with the domestic law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, shall inform that person of the arrest warrant and of its contents, and also of the possibility of consenting to surrender to the United Kingdom, in respect of Gibraltar, if it is the issuing actor or the issuing Member State.

2. A requested person who is arrested for the purpose of the execution of an arrest warrant and who does not speak or understand the language of the arrest warrant proceedings shall have the right to be assisted by an interpreter and to be provided with a written translation in the native language of the requested person or in any other language which that person speaks or understands, in accordance with the domestic law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor.

3. A requested person shall have the right to be assisted by a lawyer upon arrest, in accordance with the domestic law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor.

4. The requested person shall be informed of the person's right to appoint a lawyer in the issuing Member State or in the United Kingdom, in respect of Gibraltar, when it is the issuing actor, for the purpose of assisting the requested person in the

United Kingdom, in respect of Gibraltar, when it is the executing actor or in the executing Member State in the arrest warrant proceedings. This paragraph is without prejudice to the time limits set out in Article 140.

5. A requested person who is arrested shall have the right to have the consular authorities of that person's state of nationality, or if that person is stateless, the consular authorities of the state where that person usually resides, informed of the arrest without undue delay and to communicate with those authorities, if that person so wishes.

Article 129. Keeping the Person In Detention

When a person is arrested on the basis of an arrest warrant, the executing judicial authority shall take a decision on whether the requested person should remain in detention, in accordance with the law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor. The person may be released provisionally at any time in accordance with the domestic law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor provided that that Member State or the United Kingdom, in respect of Gibraltar, takes all the measures it deems necessary to prevent the person from absconding.

Article 130. Consent to Surrender

1. If the arrested person indicates that he or she consents to surrender, that consent and, if appropriate, the express renunciation of entitlement to the speciality rule referred to in Article 144(2) must be given before the executing judicial authority, in accordance with the domestic law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor.

2. Each Member State and the United Kingdom, in respect of Gibraltar, shall adopt the measures necessary to ensure that the consent and, where appropriate, the renunciation referred to in paragraph 1 are established in such a way as to show that the person concerned has expressed them voluntarily and in full awareness of the consequences. To that end, the requested person shall have the right to a lawyer.

3. The consent and, where appropriate, the renunciation referred to in paragraph 1 shall be formally recorded in accordance with the procedure laid down by the domestic law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor.

4. In principle, consent may not be revoked. A Member State or the United Kingdom, in respect of Gibraltar, may provide that the consent and, if appropriate, the renunciation referred to in paragraph 1 may be revoked in accordance with the rules applicable under its domestic law. In such a case, the period between the date of the consent and that of its revocation shall not be taken into consideration in establishing the time limits laid down in Article 140. The United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on the Circulation of Persons that it wishes to have recourse to this possibility, specifying the procedures whereby revocation of the consent is possible and any amendments to those procedures.

Article 131. Hearing of the Requested Person

Where the arrested person does not consent to surrender as referred to in Article 130, that person shall be entitled to be heard by the executing judicial authority, in accordance with the law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor.

Article 132. Surrender Decision

1. The executing judicial authority shall decide whether the person is to be surrendered within the time limits and in accordance with the conditions defined in this Chapter, in particular the principle of proportionality as set out in Article 116.

2. If the executing judicial authority finds the information communicated by the competent authorities of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor to be insufficient to allow it to decide on surrender, it shall request that the necessary supplementary information, in particular with respect to Article 116, Articles 119 to 121, Article 123 and Article 125, be furnished as a matter of urgency and may fix a time limit for the receipt thereof, taking into account the need to observe the time limits provided for in Article 134.

3. The issuing judicial authority may forward any additional useful information to the executing judicial authority at any time.

Article 133. Decision In the Event of Multiple Requests

1. If judicial authorities of two or more Member States or one or more Member States and the United Kingdom, in respect of Gibraltar, have issued a European arrest warrant or an arrest warrant for the same person, the decision as to which of those arrest warrants is to be executed shall be taken by the executing judicial authority, with due consideration of all the circumstances, especially the relative seriousness of the offences and place of the offences, the respective dates of the arrest warrants or European arrest warrants and whether they have been issued for the purposes of prosecution or for the execution of a custodial sentence or detention order, and of legal obligations of Member States deriving from Union law regarding, in particular, the principles of freedom of movement and non-discrimination on grounds of nationality.

2. The executing judicial authority of a Member State may seek the advice of Eurojust when making the choice referred to in paragraph 1.

3. In the event of a conflict between an arrest warrant and a request for extradition presented by a third country or an arrest warrant presented by the United Kingdom pursuant to the Trade and Cooperation Agreement (a "TCA arrest warrant"), the decision as to whether the arrest warrant or the extradition request or TCA arrest warrant takes precedence shall be taken by the competent authority of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor with due consideration of all the circumstances, in particular those referred to in paragraph 1 and those mentioned in the applicable convention.

4. This Article is without prejudice to the obligations of Member States and the United Kingdom, in respect of Gibraltar, under the Statute of the International Criminal Court.

Article 134. Time Limits and Procedures for the Decision to Execute the Arrest Warrant

1. An arrest warrant shall be dealt with and executed as a matter of urgency.

2. In cases where the requested person consents to surrender, the final decision on the execution of the arrest warrant shall be taken within ten days after the consent was given.

3. In other cases, the final decision on the execution of the arrest warrant shall be taken within 60 days after the arrest of the requested person.

4. Where in specific cases the arrest warrant cannot be executed within the time limits laid down in paragraphs 2 or 3, the executing judicial authority shall immediately inform the issuing judicial authority of that fact, giving the reasons for the delay. In such cases, the time limits may be extended by a further 30 days.

5. As long as the executing judicial authority has not taken a final decision on the arrest warrant, it shall ensure that the material conditions necessary for the effective surrender of the person remain fulfilled.

6. Reasons must be given for any refusal to execute an arrest warrant.

Article 135. Situation Pending the Decision

1. Where the arrest warrant has been issued for the purpose of conducting a criminal prosecution, the executing judicial authority shall either:

(a) agree that the requested person should be heard according to Article SURRENDER.22 (Hearing the person pending the decision); or

(b) agree to the temporary transfer of the requested person.

2. The conditions and the duration of the temporary transfer shall be determined by mutual agreement between the issuing and executing judicial authorities.

3. In the case of temporary transfer, the person must be able to return to the executing Member State or to Gibraltar where the United Kingdom, in respect of Gibraltar, is the executing actor, to attend hearings which concern that person as part of the surrender procedure.

Article 136. Hearing the Person Pending the Decision

1. The requested person shall be heard by a judicial authority. To that end, the requested person shall be assisted by a lawyer designated in accordance with the law of the issuing Member State or of the United Kingdom, in respect of Gibraltar,

if it is the issuing actor.

2. The requested person shall be heard in accordance with the law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor and with the conditions determined by mutual agreement between the issuing and executing judicial authorities.

3. The competent executing judicial authority may assign another judicial authority of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor to take part in the hearing of the requested person in order to ensure the proper application of this Article.

Article 137. Privileges and Immunities

1. Where the requested person enjoys a privilege or immunity regarding jurisdiction or execution in the executing Member State or the United Kingdom, in respect of Gibraltar, when it is the executing actor, the time limits referred to in Article 134 only start running when, or if, the executing judicial authority is informed of the fact that the privilege or immunity has been waived.

2. The competent authorities of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor shall ensure that the material conditions necessary for effective surrender are fulfilled when the person no longer enjoys such privilege or immunity.

3. Where power to waive the privilege or immunity lies with an authority of the executing Member State or of the United Kingdom or the United Kingdom, in respect of Gibraltar, when it is the executing actor, the executing judicial authority shall request that authority to exercise that power without delay. Where power to waive the privilege or immunity lies with an authority of another Member State, the United Kingdom, the United Kingdom, in respect of Gibraltar, a third country or international organisation, the issuing judicial authority shall request that authority to exercise that power.

Article 138. Competing International Obligations

1. This Agreement does not prejudice the obligations of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, where the requested person has been extradited to that Member State or to the United Kingdom, in respect of Gibraltar, from a third country or the United Kingdom and where that person is protected by provisions of the arrangement under which that person was extradited concerning the speciality rule. The executing Member State or the United Kingdom, in respect of Gibraltar, when it is the executing actor shall take all necessary measures for requesting without delay the consent of the third country or the United Kingdom from which the requested person was extradited so that the requested person can be surrendered to the issuing Member State or to the United Kingdom, in respect of Gibraltar, if it is the issuing actor. The time limits referred to in Article 134 do not start running until the day on which the speciality rule ceases to apply.

2. Pending the decision of the third country or the United Kingdom from which the requested person was extradited executing Member State or the United Kingdom, in respect of Gibraltar, when it is the executing actor shall ensure that the material conditions necessary for effective surrender remain fulfilled.

Article 139. Notification of the Decision

The executing judicial authority shall notify the issuing judicial authority immediately of the decision on the action to be taken on the arrest warrant.

Article 140. Time Limits for Surrender of the Person

1. The requested person shall be surrendered as soon as possible on a date agreed between the authorities concerned.

2. The requested person shall be surrendered no later than ten days after the final decision on the execution of the arrest warrant.

3. If the surrender of the requested person within the time limit in paragraph 2 is prevented by circumstances beyond the control of the competent authorities of any of the Member States or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, the executing and issuing judicial authorities shall immediately contact each other and agree on a new surrender date. In that event, the surrender shall take place within ten days of the new date thus agreed.

4. The surrender may exceptionally be temporarily postponed for serious humanitarian reasons, for example if there are

substantial grounds for believing that the surrender would manifestly endanger the requested person's life or health. The execution of the arrest warrant shall take place as soon as those grounds have ceased to exist. The executing judicial authority shall immediately inform the issuing judicial authority and agree on a new surrender date. In that event, the surrender shall take place within ten days of the new date agreed.

5. Upon the expiry of the time limits referred to in paragraphs 2 to 4, if the requested person is still being held in custody, that person shall be released. The executing and issuing judicial authorities shall contact each other as soon as it appears that a person is to be released under this paragraph and agree the arrangements for the surrender of that person.

Article 141. Postponed or Conditional Surrender

1. After deciding to execute the arrest warrant, the executing judicial authority may postpone the surrender of the requested person so that the requested person may be prosecuted in the executing Member State or in the United Kingdom, in respect of Gibraltar, when it is the executing actor or, if the requested person has already been sentenced, so that the requested person may serve, a sentence passed for an act other than that referred to in the arrest warrant in the executing Member State or in the United Kingdom, in respect of Gibraltar, when it is the executing actor.

2. Instead of postponing the surrender, the executing judicial authority may temporarily surrender the requested person to the issuing Member State or to the United Kingdom, in respect of Gibraltar, if it is the issuing actor under conditions to be determined by mutual agreement between the executing and the issuing judicial authorities. The agreement shall be made in writing, and the conditions shall be binding on all the authorities in the issuing Member State or the United Kingdom, in respect of Gibraltar, if it is the issuing actor.

Article 142. Transit

1. Each Member State, the United Kingdom and the United Kingdom, in respect of Gibraltar, shall permit the transit through their territory of a requested person who is being surrendered provided that they have been given information on:

(a) the identity and nationality of the person subject to the arrest warrant;

(b) the existence of an arrest warrant;

(c) the nature and legal classification of the offence; and

(d) the description of the circumstances of the offence, including the date and place.

2. Where a notification has been made by the United Kingdom, in respect of Gibraltar, in accordance with Article 122(2) to the effect that nationals of the United Kingdom will not be surrendered or that surrender will be authorised only under certain specified conditions, the United Kingdom or the United Kingdom, in respect of Gibraltar, as the case may be, may refuse the transit of nationals of the United Kingdom under the same terms or submit it to the same conditions.

3. The Member State on behalf of which a notification has been made in accordance with Article 122(2) to the effect that its own nationals will not be surrendered or that surrender will be authorised only under certain specified conditions, may refuse the transit of its own nationals through its territory under the same: terms or submit it to the same conditions.

4. The Member States, the United Kingdom and the United Kingdom, in respect of Gibraltar, shall notify the Specialised Committee on the Circulation of Persons of the authorities responsible for receiving transit requests and the necessary documents, as well as any other official correspondence relating to transit requests.

5. The transit request and the information referred to in paragraph 1 may be addressed to the authority notified pursuant to paragraph 4 by any means capable of producing a written record. The decision of the notified authority of the requested Member State or of the United Kingdom or of the United Kingdom, in respect of Gibraltar, when it is the requested actor shall be notified by the same procedure.

6. This Article does not apply in the case of transport by air without a scheduled stopover. However, if an unscheduled landing occurs the competent authorities of the issuing Member State or the United Kingdom, in respect of Gibraltar, if it is the issuing actor shall provide the authority notified pursuant to paragraph 4 with the information referred to in paragraph 1.

7. Where a transit concerns a person who is to be extradited, or surrendered, from a third country or the United Kingdom to a Member State or the United Kingdom, in respect of Gibraltar, or between Member States, this Article applies mutatis mutandis. In particular, references to an "arrest warrant" shall be treated as references to an "extradition request" or a "European Arrest Warrant", or a "TCA arrest warrant", as the case may be.

Article 143. Deduction of the Period of Detention Served In the Executing Member State or In Gibraltar

1. The issuing Member State or the United Kingdom, in respect of Gibraltar, if it is the issuing actor shall deduct all periods of detention arising from the execution of an arrest warrant from the total period of detention to be served in the issuing Member State, or in Gibraltar if the United Kingdom, in respect of Gibraltar, is the issuing actor, as a result of a custodial sentence or detention order being passed.

2. All information concerning the duration of the detention of the requested person on the basis of the arrest warrant shall be transmitted by the executing judicial authority or the central authority notified under Article 124 to the issuing judicial authority at the time of the surrender.

Article 144. Possible Prosecution for other Offences

1. The United Kingdom, in respect of Gibraltar, may notify the Specialised Committee on the Circulation of Persons that, in relations with Member States on behalf of which the Union has given the notification referred to in paragraph 2, its consent is presumed to have been given for the prosecution, sentencing or detention of a person with a view to the carrying out of a custodial sentence or detention order for an offence committed prior to the person's surrender, other than that for which that person was surrendered, unless in a particular case the executing judicial authority of the United Kingdom, in respect of Gibraltar, states otherwise in its decision on surrender.

2. The Union, acting on behalf of any of its Member States, may notify the Specialised Committee on the Circulation of Persons that, where the United Kingdom, in respect of Gibraltar, has given the notification referred to in paragraph 1, the consent of those Member States is presumed to have been given for the prosecution, sentencing or detention of a person with a view to the carrying out of a custodial sentence or detention order for an offence committed prior to the person's surrender, other than that for which that person was surrendered, unless in a particular case the executing judicial authority of the Member State states otherwise in its decision on surrender.

3. Except in the cases referred to in paragraphs 1, 2 and 4, a person surrendered may not be prosecuted, sentenced or otherwise deprived of liberty for an offence committed prior to that person's surrender other than that for which the person was surrendered.

4. Paragraph 3 does not apply in the following cases:

(a) the person, having had an opportunity to leave the Member State to which that person has been surrendered or Gibraltar when they have been surrendered to the United Kingdom, in respect of Gibraltar, has not done so within 45 days of that person's final discharge or has returned to that Member State or Gibraltar, as the case may be, after leaving it;

(b) the offence is not punishable by a custodial sentence or detention order;

(c) the criminal proceedings do not give rise to the application of a measure restricting personal liberty;

(d) the person could be liable to a penalty or a measure not involving the deprivation of liberty, in particular a financial penalty or a measure in lieu of a financial penalty, even if the penalty or measure may give rise to a restriction of the person's personal liberty;

(e) the person consented to be surrendered, where appropriate at the same time as the person renounced the speciality rule, in accordance with Article 130;

(f) the person, after the person's surrender, has expressly renounced entitlement to the speciality rule with regard to specific offences preceding the person's surrender; renunciation must be given before the competent judicial authority of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor and be recorded in accordance with the domestic law of that Member State or the United Kingdom, in respect of Gibraltar, as the case may be; the renunciation must be drawn up in such a way as to make clear that the person concerned has given it voluntarily and in full awareness of the consequences; to that end, the person shall have the right to a lawyer; and

(g) the executing judicial authority which surrendered the person gives its consent in accordance with paragraph 4.

5. A request for consent shall be submitted to the executing judicial authority, accompanied by the information referred to in Article 125(1) and a translation as referred to in Article 125(2). Consent shall be given where the offence for which it is requested is itself subject to surrender in accordance with the provisions of this Chapter. Consent shall be refused on the grounds referred to in Article 119 otherwise may be refused only on the grounds referred to in Article 120, or Article 121(2)

and Article 122(2). The decision shall be taken no later than 30 days after receipt of the request. For the situations laid down in Article 123, the competent authorities of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor must give the guarantees provided for therein.

Article 145. Surrender or Subsequent Extradition

1. The United Kingdom, in respect of Gibraltar, may notify the Specialised Committee on the Circulation of Persons that, in relations with Member States on behalf of which the Union has given the notification referred to in paragraph 2, its consent to the subsequent surrender by one of those Member States, of a person initially surrendered to that Member State by the United Kingdom, in respect of Gibraltar, pursuant to an arrest warrant, to another one of those Member States pursuant to an European arrest warrant issued for an offence committed prior to that person's surrender, is presumed to have been given, unless in a particular case the executing judicial authority of the United Kingdom, in respect of Gibraltar, states otherwise in its decision on surrender to the Member State deciding on the subsequent surrender.

2. The Union, acting on behalf of any of its Member States, may notify the Specialised Committee on the Circulation of Persons that, where the United Kingdom, in respect of Gibraltar, has given the notification referred to in paragraph 1, the consent of those Member States to the subsequent surrender by the United Kingdom, in respect of Gibraltar, of a person initially surrendered to the United Kingdom, in respect of Gibraltar, by one of those Member States pursuant to an arrest warrant, to another one of those Member States pursuant to an arrest warrant issued for an offence committed prior to that person's surrender, is presumed to have been given, unless in a particular case the executing judicial authority of the Member State which initially surrendered the person to the United Kingdom, in respect of Gibraltar, states otherwise in its decision on that surrender.

3. In any case, a person who has been surrendered to the issuing Member State or to the United Kingdom, in respect of Gibraltar, if it is the issuing actor pursuant to an arrest warrant or European arrest warrant may be subsequently surrendered to a Member State other than the executing Member State or to the United Kingdom, in respect of Gibraltar, pursuant to an arrest warrant or European arrest warrant issued for any offence committed prior to the person's surrender without the consent of the executing judicial authority in the following cases:

(a) the requested person, having had an opportunity to leave the Member State to which that person has been surrendered or Gibraltar when it has been surrendered to the United Kingdom, in respect of Gibraltar, has not done so within 45 days of that person's final discharge, or has returned to that Member State or to Gibraltar after leaving it;

(b) the requested person consents to be surrendered to a Member State other than the executing Member State or to the United Kingdom, in respect of Gibraltar, pursuant to an arrest warrant or European arrest warrant; consent must be given before the competent judicial authorities of the issuing Member State or the United Kingdom, in respect of Gibraltar, if it is the issuing actor and be recorded in accordance with the domestic law of that Member State or of the United Kingdom, in respect of Gibraltar; it must be drawn up in such a way as to make clear that the person concerned has given it voluntarily and in full awareness of the consequences; to that end, the requested person shall have the right to a lawyer; and

(c) the requested person is not subject to the speciality rule, in accordance with points (a), (e), (f) or (g) of Article 144(3).

4. The executing judicial authority shall consent to the surrender to another Member State or to the United Kingdom, in respect of Gibraltar, in accordance with the following rules:

(a) the request for consent shall be submitted in accordance with Article 126, accompanied by the information set out in Article 125(1) and a translation as referred to in Article 125(2);

(b) consent shall be given where the offence for which it is requested is itself subject to surrender in accordance with the provisions of this Agreement;

(c) the decision shall be taken no later than 30 days after receipt of the request; and

(d) consent shall be refused on the grounds referred to in Article 119 and otherwise may be refused only on the grounds referred to in Article 120, Article 121(2) and Article 122(2).

5. For the situations referred to in Article 123, the competent authorities of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor must give the guarantees provided for therein.

6. Notwithstanding paragraphs 1 and 2, a person who has been surrendered pursuant to an arrest warrant shall not be extradited to a third country or surrendered to the United Kingdom without the consent of the competent authority of the Member State which surrendered the person or of the United Kingdom, in respect of Gibraltar, if it surrendered the person. Such consent shall be given in accordance with the Conventions by which that Member State or the United Kingdom, in

respect of Gibraltar, as the case may be, is bound, as well as with the domestic law of that Member State or of the United Kingdom, in respect of Gibraltar.

Article 146. Handing Over of Property

1. At the request of the issuing judicial authority or on its own initiative, the executing judicial authority shall, in accordance with the domestic law of the executing Member State or of the United Kingdom, in respect of Gibraltar, when it is the executing actor, seize and hand over property which:

(a) may be required as evidence; or

(b) has been acquired by the requested person as a result of the offence.

2. The property referred to in paragraph 1 shall be handed over even if the arrest warrant cannot be carried out owing to the death or escape of the requested person.

3. If the property referred to in paragraph 1 is liable to seizure or confiscation in the executing Member State or in Gibraltar if the United Kingdom, in respect of Gibraltar, is the executing actor, the authorities of that Member State or of the United Kingdom, in respect of Gibraltar, may, if the property is needed in connection with pending criminal proceedings, temporarily retain it or hand it over to the United Kingdom, in respect of Gibraltar, if it is the issuing actor or to the issuing Member State on condition that it is returned.

4. Any rights which the authorities of the executing Member State or of the United Kingdom, in respect of Gibraltar, if it is the executing actor or third parties may have acquired in the property referred to in paragraph 1 shall be preserved. Where such rights exist the competent authority of the United Kingdom, in respect of Gibraltar, if it is the issuing actor or of the issuing Member State shall return the property without charge to the executing Member State or to Gibraltar if the United Kingdom, in respect of Gibraltar, is the executing actor as soon as the criminal proceedings have been terminated.

Article 147. Expenses

1. Expenses incurred in the executing Member State or in Gibraltar where the United Kingdom, in respect of Gibraltar, is the executing actor for the execution of an arrest warrant shall be borne by the authorities of the executing Member State or the United Kingdom, in respect of Gibraltar, when it is the executing actor.

2. All other expenses shall be borne by the authorities of the issuing Member State or of the United Kingdom, in respect of Gibraltar, if it is the issuing actor.

Article 148. Relation to other Legal Instruments

1. Without prejudice to their application in relations between Member States or the United Kingdom, in respect of Gibraltar, on the one side, and third countries, on the other side, this Chapter, from the date of entry into force of this Agreement, replaces the corresponding provisions of the following conventions applicable in the field of extradition in relations between the United Kingdom, in respect of Gibraltar, on the one side, and Member States, on the other side:

(a) the European Convention on Extradition, done at Paris on 13 December 1957, and its additional protocols; and

(b) the European Convention on the Suppression of Terrorism, as far as extradition is concerned.

2. Where the Conventions referred to in paragraph 1 apply to the territories of Member States or to territories for whose external relations a Member State is responsible to which this Chapter does not apply, those Conventions continue to govern the relations existing between those territories and the United Kingdom, in respect of Gibraltar.

Article 149. Review of Notifications

When carrying out a joint review of this Agreement in accordance with Article 330, the Parties shall consider the need to maintain the notifications made under Article 118(4), Article 121(2) and Article 122(2). If the notifications referred to in Article 122(2) are not renewed, they shall expire at the later of the dates of four years after the date of entry into force of this Agreement or completion of the joint review of this Agreement in accordance with Article 330. Notifications as referred to in Article 122(2) may only be renewed or newly made during the three months prior to the fourth anniversary of the entry into force of this Agreement and, subsequently, every five years thereafter, provided that the conditions set out in Article 122(2) are met at that time.

Article 150. Ongoing Arrest Warrants In Case of Disapplication

Notwithstanding Articles, 66, 67 and 334, the provisions of this Chapter apply in respect of arrest warrants where the requested person was arrested before the disapplication of this Chapter for the purposes of the execution of an arrest warrant, irrespective of the decision of the executing judicial authority as to whether the requested person is to remain in detention or be provisionally released.

Article 151. Application to Existing European Arrest Warrants

This Chapter shall apply in respect of European arrest warrants issued in accordance with Council Framework Decision 2002/584/JHA (1) by the competent authorities of a Member State or the United Kingdom, in respect of Gibraltar, before 31 December 2020 where the requested person has not been arrested for the purpose of its execution by the date of entry into force of this Agreement.

(1) Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ EU L 190, 18.7.2002, p. 1, ELI: http://data.europa.eu/eli/dec_framw/2002/584/oj)

Chapter 5. MUTUAL ASSISTANCE

Article 152. Objective

1. The objective of this Chapter is to supplement the provisions, and facilitate the application between Member States, on the one side, and the United Kingdom, in respect of Gibraltar, on the other side, of:

(a) the European Convention on Mutual Assistance in Criminal Matters, done at Strasbourg on 20 April 1959 (the "European Mutual Assistance Convention");

(b) the Additional Protocol to the European Mutual Assistance Convention, done at Strasbourg on 17 March 1978;

(c) the Second Additional Protocol to the European Mutual Assistance Convention, done at Strasbourg on 8 November 2001; and

(d) the Third Additional Protocol to the European Mutual Assistance Convention, done at Valletta on 19 September 2025.

2. This Chapter is without prejudice to the provisions of Chapter 3 of this Title, which takes precedence over this Chapter.

Article 153. Definition of Competent Authority

For the purposes of this Chapter, "competent authority" means any authority of a Member State or of the United Kingdom, in respect of Gibraltar, which is competent to send or receive requests for mutual assistance in accordance with the provisions of the European Mutual Assistance Convention and its Protocols and, where applicable, as defined by Member States or the United Kingdom, in respect of Gibraltar, in their respective declarations addressed to the Secretary General of the Council of Europe. "Competent authority" also includes the Union bodies notified in accordance with Article 68; with regard to such Union bodies, the provisions of this Chapter apply accordingly.

Article 154. Form for a Request for Mutual Assistance

1. Requests for mutual assistance shall be made using the standard form set out in Annex 15.

2. The Specialised Committee on the Circulation of Persons may amend the form in Annex 15 as may be necessary.

3. The Specialised Committee on the Circulation of Persons shall adopt any modifications to the form in Annex 15 as may be necessary to reflect changes made to the form for requests for mutual assistance between the United Kingdom and the Member States under the Trade and Cooperation Agreement.

4. The Specialised Committee on the Circulation of Persons may also undertake to establish a standard form for notifications such as those referred to in paragraph 2 of Article 3 of the Third Additional Protocol to the European Mutual Assistance Convention. The Specialised Committee on the Circulation of Persons may amend such standard form for notifications as may be necessary.

Article 155. Conditions for a Request for Mutual Assistance

1. The competent authority of the requesting Member State or of the United Kingdom, in respect of Gibraltar, if it is the requesting actor, may only make a request for mutual assistance if it is satisfied that the following conditions are met:

(a) the request is necessary and proportionate for the purpose of the proceedings, taking into account the rights of the suspected or accused person; and

(b) the investigative measure or investigative measures indicated in the request could have been ordered under the same conditions in a similar domestic case.

2. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, may consult the requesting Member State or the United Kingdom, in respect of Gibraltar, if it made the request, if the competent authority of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, is of the view that the conditions in paragraph 1 are not met. After the consultation, the competent authority of the requesting Member State or of the United Kingdom, in respect of Gibraltar, if it made the request, may decide to withdraw the request for mutual assistance.

Article 156. Recourse to a Different Type of Investigative Measure

1. Wherever possible, the competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall consider recourse to an investigative measure other than the measure indicated in the request for mutual assistance if:

(a) the investigative measure indicated in the request does not exist under the law of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor; or

(b) the investigative measure indicated in the request would not be available in a similar domestic case.

2. Without prejudice to the grounds for refusal available under the European Mutual Assistance Convention and its Protocols and under Article 158, paragraph 1 of this Article does not apply to the following investigative measures, which shall always be available under the law of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor:

(a) the obtaining of information contained in databases held by police or judicial authorities that is accessible by the competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, in the framework of criminal proceedings;

(b) the hearing of a witness, expert, victim, suspected or accused person or third party in the requested Member State or in Gibraltar, if the United Kingdom, in respect of Gibraltar, is the requested actor;

(c) any non-coercive investigative measure as defined under the law of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor; and

(d) the identification of persons holding a subscription to a specified phone number or IP address.

3. The competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, may also have recourse to an investigative measure other than the measure indicated in the request for mutual assistance if the investigative measure selected by the competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, would achieve the same result by less intrusive means than the investigative measure indicated in the request.

4. If the competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, decides to have recourse to a measure other than that indicated in the request for mutual assistance as referred to in paragraphs 1 or 3, it shall first inform the competent authority of the United Kingdom, in respect of Gibraltar, if it made the request, or of the requesting Member State, which may decide to withdraw or supplement the request.

5. If the investigative measure indicated in the request does not exist under the law of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, or would not be available in a similar domestic case, and there is no other investigative measure which would have the same result as the investigative measure requested, the competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall inform the competent authority of the United Kingdom, in respect of Gibraltar, if it made the request, or of the requesting Member State, that it is not possible to provide the assistance requested.

Article 157. Obligation to Inform

The competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall inform the competent authority of the United Kingdom, in respect of Gibraltar, if it made the request, or of the requesting Member State, by any means and without undue delay if:

(a) it is impossible to execute the request for mutual assistance due to the fact that the request is incomplete or manifestly incorrect; or

(b) the competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor in the course of the execution of the request for mutual assistance, considers without further enquiries that it may be appropriate to carry out investigative measures not initially foreseen, or which could not be specified when the request for mutual assistance was made, in order to enable the competent authority of the United Kingdom, in respect of Gibraltar, if it made the request, or of the requesting Member State, to take further action in the specific case.

Article 158. Ne Bis In Idem

Mutual assistance may be refused, in addition to the grounds for refusal provided for under the European Mutual Assistance Convention and its Protocols, on the ground that the person in respect of whom the assistance is requested and who is subject to criminal investigations, prosecutions or other proceedings, including judicial proceedings, in the requesting Member State or in the United Kingdom, in respect of Gibraltar, if it made the request, has been finally judged by an authority of the United Kingdom, of the United Kingdom, in respect of Gibraltar, or of a Member State, as the case may be, in respect of the same acts, provided that, if a penalty has been imposed, it has been enforced, is in the process of being enforced or can no longer be enforced, as the case may be, under the law of the United Kingdom, of the United Kingdom, in respect of Gibraltar, or of the Member State in which the person is being sentenced.

Article 159. Time Limits

1. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall decide whether to execute the request for mutual assistance as soon as possible and in any event no later than 45 days after the receipt of the request and shall inform the competent authority of the United Kingdom, in respect of Gibraltar, if it made the request, or of the requesting Member State, of its decision.

2. A request for mutual assistance shall be executed as soon as possible and, in any event, no later than 90 days after the decision referred to in paragraph 1 or after the consultation referred to in Article 155(2) has taken place.

3. If it is indicated in the request for mutual assistance that, due to procedural deadlines, the seriousness of the offence or other particularly urgent circumstances, a shorter time limit than that provided for in paragraph 1 or 2 is necessary, or if it is indicated in the request that a measure for mutual assistance is to be carried out on a specific date, the competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall take as full account as possible of that requirement.

4. Where applicable, if a request for mutual assistance is made to take provisional measures pursuant to Article 24 of the Second Additional Protocol to the European Mutual Assistance Convention, the competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall decide on the provisional measure, and shall communicate that decision to the competent authority of the United Kingdom, in respect of Gibraltar, if it made the request, or of the requesting Member State as soon as possible after the receipt of the request. Before lifting any provisional measure taken pursuant to this Article, the competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, wherever possible, shall give the competent authority of the requesting the United Kingdom, in respect of Gibraltar, if it made the request, or of the requesting Member State, an opportunity to present its reasons in favour of continuing the measure.

5. If in a specific case, the time limit provided for in paragraph 1 or 2, or the time limit or specific date referred to in paragraph 3 cannot be met, or the decision on taking provisional measures in accordance with paragraph 4 is delayed, the competent authority of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall, without delay, inform the competent authority of the United Kingdom, in respect of Gibraltar, if it made the request, or of the requesting Member State, by any means, giving the reasons for the delay, and shall consult with the competent authority of the United Kingdom, in respect of Gibraltar, if it made the request, or of the requesting Member State, on the appropriate timing to execute the request for mutual assistance.

6. For greater certainty, the provisions of this Article take precedence over Article 6 of the Third Additional Protocol to the

European Mutual Assistance Convention.

Article 160. Transmission of Requests for Mutual Assistance

1. Article 6(1) shall apply only in relation to the initial transmission of requests for mutual assistance and to the initial transmission of communications relating to spontaneous information and notifications referred to in Articles 3 and 4 of the Third Additional Protocol to the European Mutual Assistance Convention, which shall be transmitted in accordance with that Article and the respective provisions of the European Mutual Assistance Convention and its Protocols.

2. In addition to the channels of communication provided for under the European Mutual Assistance Convention and its Protocols, if direct transmission is provided, under their respective provisions, for requests for mutual assistance, and communications relating to spontaneous information and notifications referred to Articles 3 and 4 of the Third Additional Protocol to the European Mutual Assistance Convention, these may also be transmitted directly by public prosecutors of the United Kingdom, in respect of Gibraltar, to competent authorities of the Member States. Article 6(1) shall apply to the initial transmission of such requests for mutual assistance, and to the initial transmission of such communications relating to spontaneous information and notifications referred to Articles 3 and 4 of the Third Additional Protocol to the European Mutual Assistance Convention by public prosecutors of the United Kingdom, in respect of Gibraltar.

3. In addition to the channels of communication provided for under the European Mutual Assistance Convention and its Protocols, in urgent cases or where competent authorities of two or more Member States and the United Kingdom, in respect of Gibraltar, need to coordinate judicial cooperation procedures, any request for mutual assistance, as well as spontaneous information, or notification referred to Articles 3 and 4 of the Third Additional Protocol to the European Mutual Assistance Convention, and by way of derogation from paragraph 1, may be transmitted via Europol or Eurojust in line with the provisions in the respective Chapters of this Agreement.

Article 161. Joint Investigation Teams

If the competent authorities of Member States and of the United Kingdom, in respect of Gibraltar, set up a Joint Investigation Team, the relationship between Member States within the Joint Investigation Team shall be governed by Union law, notwithstanding the legal basis referred to in the Agreement on the setting up of the Joint Investigation Team.

Chapter 6. FREEZING AND CONFISCATION

Article 162. Objective and Principles of Cooperation

1. The objective of this Chapter is to provide for cooperation between the United Kingdom, in respect of Gibraltar, on the one side, and the Member States, on the other side, to the widest extent possible for the purposes of investigations and proceedings aimed at the freezing of property with a view to subsequent confiscation thereof and investigations and proceedings aimed at the confiscation of property within the framework of proceedings in criminal matters. This does not preclude other cooperation pursuant to Article 171(5) and (6). This Chapter also provides for cooperation with Union bodies designated by the Union for the purposes of this Chapter.

2. The United Kingdom, in respect of Gibraltar, and the Member States shall comply, under the conditions provided for in this Chapter, with requests from a Member State or the United Kingdom, in respect of Gibraltar:

(a) for the confiscation of specific items of property, as well as for the confiscation of proceeds consisting of a requirement to pay a sum of money corresponding to the value of proceeds;

(b) for investigative assistance and provisional measures with a view to either form of confiscation referred to in point (a).

3. Investigative assistance and provisional measures sought under point (b) of paragraph 2 shall be carried out as permitted by and in accordance with the domestic law of the requested Member State or of the United Kingdom, in respect of Gibraltar, if it is the requested actor. Where the request concerning one of these measures specifies formalities or procedures which are necessary under the domestic law of the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, even if unfamiliar to the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, the latter shall comply with such requests to the extent that the action sought is not contrary to the fundamental principles of its domestic law.

4. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall ensure that the requests coming from another Member State or the United Kingdom, in respect of Gibraltar, to identify, trace, freeze or seize the proceeds and instrumentalities, receive the same priority as those made in the framework of domestic procedures.

5. When requesting confiscation, investigative assistance and provisional measures for the purposes of confiscation, the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, shall ensure that the principles of necessity and proportionality are respected.

6. The provisions of this Chapter shall apply in place of the "international cooperation" Chapters of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, done at Warsaw on 16 May 2005 ("the 2005 Convention") and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, done at Strasbourg on 8 November 1990 ("the 1990 Convention"). Article 163 of this Agreement shall replace the corresponding definitions in Article 1 of the 2005 Convention and Article 1 of the 1990 Convention. The provisions of this Chapter shall not affect the obligations of the United Kingdom, in respect of Gibraltar, or Member States under the other provisions of the 2005 Convention and the 1990 Convention.

Article 163. Definitions

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

(a) "confiscation" means a penalty or a measure ordered by a court following proceedings in relation to a criminal offence or criminal offences, resulting in the final deprivation of property;

(b) "freezing" or "seizure" means temporarily prohibiting the transfer, destruction, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(c) "instrumentalities" means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences;

(d) "judicial authority" means an authority that is, under domestic law, a judge, a court or a public prosecutor; a public prosecutor is considered a judicial authority only to the extent that domestic law so provides;

(e) "proceeds" means any economic benefit, derived from or obtained, directly or indirectly, from criminal offences, or an amount of money equivalent to that economic benefit; it may consist of any property as defined in this Article;

(f) "property" includes property of any description, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments evidencing title or interest in such property, which the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, considers to be:

(i) the proceeds of a criminal offence, or its equivalent, whether the full amount of the value of such proceeds or only part of the value of such proceeds;

(ii) the instrumentalities of a criminal offence, or the value of such instrumentalities;

(iii) subject to confiscation under any other provisions relating to powers of confiscation under the law of the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, following proceedings in relation to a criminal offence, including third party confiscation, extended confiscation and confiscation without final conviction.

Article 164. Obligation to Assist

The United Kingdom, in respect of Gibraltar, and the Member States shall afford each other, upon request, the widest possible measure of assistance in the identification and tracing of instrumentalities, proceeds and other property liable to confiscation. Such assistance shall include any measure providing and securing evidence as to the existence, location or movement, nature, legal status or value of those instrumentalities, proceeds or other property.

Article 165. Requests for Information on Bank Accounts and Safe Deposit Boxes

1. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall, under the conditions set out in this Article, take the measures necessary to determine, in answer to a request sent by the United Kingdom, in respect of Gibraltar, or a Member State, whether a natural or legal person that is the subject of a criminal investigation holds or controls one or more accounts, of whatever nature, in any bank located in the respective Member State's territory or in Gibraltar, and, if so, provide the details of the identified accounts. These details shall in particular include the name of the customer account holder and the IBAN number, and, in the case of safe deposit boxes, the name of the lessee or a unique identification number.

2. The obligation set out in paragraph 1 applies only to the extent that the information is in the possession of the bank keeping the account.

3. In addition to the requirements of Article 186, the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, shall, in the request:

(a) indicate why it considers that the requested information is likely to be of substantial value for the purposes of the criminal investigation into the offence;

(b) state on what grounds it presumes that banks in the requested Member State or in Gibraltar, if the United Kingdom, in respect of Gibraltar, is the requested actor, hold the account and specify, to the widest extent possible, which banks and accounts may be involved; and

(c) include any additional information available which may facilitate the execution of the request.

4. The United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on the Circulation of Persons that this Article will be extended to accounts held in non-bank financial institutions. Such notifications may be made subject to the principle of reciprocity.

Article 166. Requests for Information on Banking Transactions

1. On request by another Member State or the United Kingdom, in respect of Gibraltar, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall provide the particulars of specified bank accounts and of banking operations which have been carried out during a specified period through one or more accounts specified in the request, including the particulars of any sending or recipient account.

2. The obligation set out in paragraph 1 applies only to the extent that the information is in the possession of the bank keeping the account.

3. In addition to the requirements of Article 186, the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, shall indicate in its request why it considers the requested information relevant for the purposes of the criminal investigation into the offence.

4. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, may make the execution of such a request dependent on the same conditions as it applies in respect of requests for search and seizure.

5. The United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on the Circulation of Persons that this Article will be extended to accounts held in non-bank financial institutions. Such notifications may be made subject to the principle of reciprocity.

Article 167. Requests for the Monitoring of Banking Transactions

1. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall ensure that, at the request of the United Kingdom, in respect of Gibraltar, or of a Member State, it is able to monitor, during a specified period, the banking operations that are being carried out through one or more accounts specified in the request and to communicate the results of the monitoring to the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor.

2. In addition to the requirements of Article 186, the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, shall indicate in its request why it considers the requested information relevant for the purposes of the criminal investigation into the offence.

3. The decision to monitor shall be taken in each individual case by the competent authorities of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, in accordance with its domestic law.

4. The practical details regarding the monitoring shall be jointly decided by the requesting and requested Member State or the United Kingdom, in respect of Gibraltar, as the requesting or requested actor, as the case may be.

5. The United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on the Circulation of Persons that this Article will be extended to accounts held in non-bank financial institutions. Such notifications may be made subject to the principle of reciprocity.

Article 168. Spontaneous Information

Without prejudice to its own investigations or proceedings, a Member State or the United Kingdom, in respect of Gibraltar, may without prior request forward to the United Kingdom, in respect of Gibraltar, or to a Member State information on instrumentalities, proceeds and other property liable to confiscation, where it considers that the disclosure of such information might assist the receiving Member State or the United Kingdom, in respect of Gibraltar, if it is the receiving actor, in initiating or carrying out investigations or proceedings or might lead to a request by that Member State or the United Kingdom, in respect of Gibraltar, under this Chapter.

Article 169. Obligation to Take Provisional Measures

1. At the request of the United Kingdom, in respect of Gibraltar, or of a Member State which has instituted a criminal investigation or proceedings, or an investigation or proceedings for the purposes of confiscation, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall take the necessary provisional measures, such as freezing or seizing, to prevent any dealing in, transfer or disposal of property which, at a later stage, may be the subject of a request for confiscation or which might satisfy the request.

2. A Member State or the United Kingdom, in respect of Gibraltar, which has received a request for confiscation pursuant to Article 171 shall, if so requested, take the measures referred to in paragraph 1 in respect of any property which is the subject of the request or which might satisfy the request.

3. Where a request is received under this Article, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall take all necessary measures to comply with the request without delay and with the same speed and priority as for a similar domestic case and send confirmation without delay and by any means of producing a written record to the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State.

4. Where the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, states that immediate freezing is necessary since there are legitimate grounds to believe that the property in question will immediately be removed or destroyed, the United Kingdom, in respect of Gibraltar, if it is the requested actor, or the requested Member State shall take all necessary measures to comply with the request within 96 hours of receiving the request and send confirmation to the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, by any means of producing a written record and without delay.

5. Where the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, is unable to comply with the time limits under paragraph 4, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall immediately inform the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State and consult with the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State on the appropriate next steps.

6. Any expiration of the time limits under paragraph 4 does not extinguish the requirements placed on the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, by this Article.

Article 170. Execution of Provisional Measures

1. After the execution of the provisional measures requested in conformity with Article 169(1), the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, shall provide spontaneously and as soon as possible to the United Kingdom, in respect of Gibraltar, if it is the requested actor, or the requested Member State all information which may question or modify the extent of those measures. The requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, shall also provide without delay all complementary information required by the United Kingdom, in respect of Gibraltar, if it is the requested actor, or the requested Member State and which is necessary for the implementation of and the follow-up to the provisional measures.

2. Before lifting any provisional measure taken pursuant to Article, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall, wherever possible, give the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State an opportunity to present its reasons in favour of continuing the measure.

Article 171. Obligation to Confiscate

1. If a Member State or the United Kingdom, in respect of Gibraltar, has received a request for confiscation of property situated in the respective Member State's territory or in Gibraltar, if the United Kingdom, in respect of Gibraltar, is the requested actor, it shall:

(a) enforce a confiscation order made by a court in the requesting Member State or in Gibraltar, if the United Kingdom, in respect of Gibraltar is the requesting actor, in relation to such property; or

(b) submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, enforce it.

3. For the purposes of point (b) of paragraph 1, the Member States or the United Kingdom, in respect of Gibraltar, shall, whenever necessary, have competence to institute confiscation proceedings under their own domestic law.

4. Paragraph 1 also applies to confiscation consisting of a requirement to pay a sum of money corresponding to the value of proceeds, if property against which the confiscation can be enforced is located in the requested Member State's territory or in Gibraltar, if the United Kingdom, in respect of Gibraltar, is the requested actor. In such cases, when enforcing confiscation pursuant to paragraph 1, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall, if payment is not obtained, realise the claim on any property available for that purpose.

5. If a request for confiscation concerns a specific item of property, the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, and the United Kingdom, in respect of Gibraltar, if it is the requested actor, or the requested Member State, may decide that the United Kingdom, in respect of Gibraltar, if it is the requested actor, or the requested Member State may enforce the confiscation in the form of a requirement to pay a sum of money corresponding to the value of the property.

6. The United Kingdom, in respect of Gibraltar, and the Member States shall cooperate to the widest extent possible under their domestic law with a Member State or the United Kingdom, in respect of Gibraltar, requesting the execution of measures equivalent to confiscation of property, where the request has not been issued in the framework of proceedings in criminal matters, in so far as such measures are ordered by a judicial authority of the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, in relation to a criminal offence, provided that it has been established that the property constitutes proceeds or:

(a) other property into which the proceeds have been transformed or converted;

(b) property acquired from legitimate sources, if proceeds have been intermingled, in whole or in part, with such property, up to the assessed value of the intermingled proceeds; or

(c) income or other benefit derived from the proceeds, from property into which proceeds of crime have been transformed or converted or from property with which the proceeds of crime have been intermingled, up to the assessed value of the intermingled proceeds, in the same manner and to the same extent as proceeds.

7. The measures referred to in paragraph 5 include measures which allow the seizure, detention and forfeiture of property and assets by means of applications to civil courts.

8. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall take the decision on the execution of the confiscation order without delay, and, without prejudice to paragraph 8 of this Article, no later than 45 days after receiving the request. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall send confirmation to the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State by any means of producing a written record and without delay. Unless grounds for postponement under Article 178 exist, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor shall take the concrete measures necessary to execute the confiscation order without delay and, at least, with the same speed and priority as for a similar domestic case.

9. Where the requested Member State or the United Kingdom in respect of Gibraltar if it is the requested actor, is unable to comply with the time limit under paragraph 7, it shall immediately inform the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State and consult with the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State on the appropriate next steps.

10. Any expiration of the time limit under paragraph 7 does not extinguish the requirements placed on the requested Member State or the United Kingdom in respect of Gibraltar if it is the requested actor, by this Article.

Article 172. Execution of Confiscation

1. The procedures for obtaining and enforcing the confiscation under Article 171 shall be governed by the domestic law of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor.

2. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall be bound by

the findings as to the facts in so far as they are stated in a conviction or judicial decision issued by a court in the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State or in so far as such conviction or judicial decision is implicitly based on them.

3. If the confiscation consists of the requirement to pay a sum of money, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall convert the amount thereof into their respective currency at the rate of exchange applicable at the time when the decision to enforce the confiscation is taken.

Article 173. Confiscated Property

1. Subject to paragraphs 2 and 3 of this Article, property confiscated pursuant to Articles 171 and 172 shall be disposed of by the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, in accordance with its domestic law and administrative procedures.

2. When acting on the request made by the United Kingdom, in respect of Gibraltar, or a Member State pursuant to Article 171, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall, to the extent permitted by its domestic law and if so requested, give priority consideration to returning the confiscated property to the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State so that it can give compensation to the victims of the crime or return such property to their legitimate owners.

3. Where acting on the request made by the United Kingdom, in respect of Gibraltar, or a Member State in accordance with Article 171, and after having taken into account the right of a victim to restitution or compensation of property pursuant to paragraph 2 of this Article, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall dispose of the money obtained as a result of the execution of a confiscation order as follows:

(a) if the amount is equal to or less than EUR 10 000, the amount shall accrue to the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor; or

(b) if the amount is greater than EUR 10 000, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall transfer 50 % of the amount recovered to the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State.

4. Notwithstanding paragraph 3, the United Kingdom, in respect of Gibraltar, and Member States may, on a case-by-case basis, give special consideration to concluding other such agreements or arrangements on disposal of property as they deem appropriate.

Article 174. Right of Enforcement and Maximum Amount of Confiscation

1. A request for confiscation made under Article 171 does not affect the right of the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, to enforce the confiscation order itself.

2. Nothing in this Chapter shall be interpreted as permitting the total value of the confiscation to exceed the amount of the sum of money specified in the confiscation order. If a Member State or the United Kingdom, in respect of Gibraltar, finds that this might occur, the United Kingdom, in respect of Gibraltar, and the Member States concerned, shall enter into consultations to avoid such an effect.

Article 175. Imprisonment In Default

The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall not impose imprisonment in default or any other measure restricting the liberty of a person as a result of a request under Article 171 without the consent of the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State.

Article 176. Grounds for Refusal

1. Cooperation under this Chapter may be refused if:

(a) the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, considers that executing the request would be contrary to the principle of ne bis in idem; or

(b) the offence to which the request relates does not constitute an offence under the domestic law of the requested

Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, if committed within its jurisdiction; however, this ground for refusal applies to cooperation under Articles CONFISC.3 (Obligation to assist) to CONFISC.7 (Spontaneous information) only in so far as the assistance sought involves action which is coercive.

2. The United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on the Circulation of Persons that, on the basis of reciprocity, the condition of double criminality referred to in point (e) of paragraph 1 of this Article will not be applied provided that the offence giving rise to the request is:

(a) one of the offences listed in Article 118(5), as defined by the law of the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor; and

(b) punishable by the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, by a custodial sentence or a detention order for a maximum period of at least three years.

3. Cooperation under Articles 164 to 168, in so far as the assistance sought involves action which is coercive, and under 169 and 170 may also be refused if the measures sought could not be taken under the domestic law of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, for the purposes of investigations or proceedings in a similar domestic case.

4. Where the domestic law of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, so requires, cooperation under Articles 164 to 168, in so far as the assistance sought involves action which is coercive, and under Articles 169 and 170 may also be refused if the measures sought or any other measures having similar effects would not be permitted under the domestic law of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, or, if the request is not authorised by a judicial authority acting in relation to criminal offences.

5. Cooperation under Articles 171 to 175 may also be refused if:

(a) under the domestic law of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, confiscation is not provided for in respect of the type of offence to which the request relates;

(b) without prejudice to the obligation pursuant to Article 171(3), it would be contrary to the principles of the domestic law of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, concerning the limits of confiscation in respect of the relationship between an offence and:

(i) an economic advantage that might be qualified as its proceeds; or

(ii) property that might be qualified as its instrumentalities;

(c) under the domestic law of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, confiscation may no longer be imposed or enforced because of the lapse of time;

(d) without prejudice to Article 171(5) and (6), the request does not relate to a previous conviction, or a decision of a judicial nature or a statement in such a decision that an offence or several offences have been committed, on the basis of which the confiscation has been ordered or is sought;

(e) confiscation is either not enforceable in the requesting Member State or in Gibraltar, if the United Kingdom, in respect of Gibraltar, is the requesting actor, or it is still subject to ordinary means of appeal; or

(f) the request relates to a confiscation order resulting from a decision rendered in absentia of the person against whom the order was issued and, in the opinion of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, the proceedings conducted by the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State leading to such decision did not satisfy the minimum rights of defence recognised as due to everyone against whom a criminal charge is made.

6. For the purposes of point (f) of paragraph 5 a decision is not considered to have been rendered in absentia if:

(a) it has been confirmed or pronounced after opposition by the person concerned; or

(b) it has been rendered on appeal, provided that the appeal was lodged by the person concerned.

7. When considering, for the purposes of point (f) of paragraph 5, whether the minimum rights of defence have been satisfied, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall take into account the fact that the person concerned has deliberately sought to evade justice or the fact that that person, having had the possibility of lodging a legal remedy against the decision made in absentia, elected not to do so. The same applies

where the person concerned, having been duly served with the summons to appear, elected not to do so nor to ask for adjournment.

8. The Member States or the United Kingdom, in respect of Gibraltar, shall not invoke bank secrecy as a ground to refuse any cooperation under this Chapter. Where its domestic law so requires, a requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, may require that a request for cooperation which would involve the lifting of bank secrecy be authorised by a judicial authority acting in relation to criminal offences.

9. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall not invoke the fact that:

(a) the person under investigation by, or subject to a confiscation order of, the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, is a legal person as an obstacle to affording any cooperation under this Chapter;

(b) the natural person against whom an order of confiscation of proceeds has been issued has died or a legal person against whom an order of confiscation of proceeds has been issued has subsequently been dissolved as an obstacle to affording assistance in accordance with point (a) of Article 171(1); or

(c) the person under investigation by, or subject to a confiscation order of, the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, is mentioned in the request both as the author of the underlying criminal offence and of the offence of money laundering as an obstacle to affording any cooperation under this Chapter.

Article 177. Consultation and Information

Where there are substantial grounds for believing that the execution of a freezing or confiscation order would entail a real risk for the protection of fundamental rights, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall, before it decides on the execution of the freezing or confiscation order, consult the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State and may require any necessary information to be provided.

Article 178. Postponement

The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, may postpone action on a request if such action would prejudice the investigations or proceedings of that Member State or the United Kingdom, in respect of Gibraltar.

Article 179. Partial or Conditional Granting of a Request

Before refusing or postponing cooperation under this Chapter, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is requested actor, where appropriate after having consulted the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State, shall consider whether the request may be granted partially or subject to such conditions as it deems necessary.

Article 180. Notification of Documents

1. The United Kingdom, in respect of Gibraltar, and the Member States shall afford each other the widest measure of mutual assistance in the serving of judicial documents to persons affected by provisional measures and confiscation.

2. Nothing in this Article is intended to interfere with:

(a) the possibility of sending judicial documents, by postal channels, directly to persons abroad; and

(b) the possibility for judicial officers, officials or other competent authorities of the Member State of origin, or the United Kingdom, in respect of Gibraltar, where it is the sending actor, to effect service of judicial documents directly through the consular authorities of that Member State or the United Kingdom, as the case may be, or through the judicial authorities, including judicial officers and officials, or other competent authorities, of the Member State of destination, or the United Kingdom, in respect of Gibraltar, if it is the receiving actor.

3. When serving judicial documents to persons abroad affected by provisional measures or confiscation orders issued in the sending Member State or in the United Kingdom, in respect of Gibraltar, if they were sent by it, that Member State or the

United Kingdom, in respect of Gibraltar, shall indicate what legal remedies are available under its domestic law to such persons. The central authority of the United Kingdom, in respect of Gibraltar, if the person to whom the judicial documents are sent resides in Gibraltar, or in the Member State in which the person to whom the judicial documents are sent resides, as the case may be, shall receive a copy of these judicial documents in parallel.

Article 181. Recognition of Foreign Decisions

1. When dealing with a request for cooperation under Articles 169 to 175 the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall recognise any decision issued by a judicial authority taken in the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State regarding rights claimed by third parties.

2. Recognition may be refused if:

(a) third parties did not have adequate opportunity to assert their rights;

(b) the decision is incompatible with a decision already taken in the requested Member State or in Gibraltar, if the United Kingdom, in respect of Gibraltar, is the requested actor, on the same matter;

(c) it is incompatible with the ordre public of the United Kingdom, in respect of Gibraltar, or the Member State, as the case may be; or

(d) the decision was taken contrary to provisions on exclusive jurisdiction provided for by the domestic law of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor.

Article 182. Authorities

1. The United Kingdom, in respect of Gibraltar, and the Member States shall each notify to the Specialised Committee on the Circulation of Persons a central authority to be responsible for sending and answering requests made under this Chapter, the execution of such requests or their transmission to the authorities competent for their execution.

2. The Union may designate a Union body which may, in addition to the competent authorities of the Member States, make and, if appropriate, execute requests under this Chapter. Any such request is to be treated for the purposes of this Chapter as a request by a Member State. The Union may also designate that Union body as the central authority responsible for the purpose of sending and answering requests made under this Chapter by, or to, that body.

Article 183. Communication

1. Article 6(1) shall apply only in relation to initial requests made under this Chapter, which shall be transmitted in accordance with that Article.

2. Subject to paragraph 1, the central authorities shall communicate directly with one another.

3. Subject to paragraph 1, in urgent cases, requests or communications under this Chapter may be sent directly by the judicial authorities of the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, to judicial authorities of the United Kingdom, in respect of Gibraltar, if it is the requested actor or the requested Member State. In such cases, a copy shall be sent at the same time to the central authority of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor through the central authority of the United Kingdom, in respect of Gibraltar, if it is the requesting actor or the requesting Member State.

4. Where a request is made pursuant to paragraph 3 and the authority is not competent to deal with the request, it shall refer the request to the competent domestic authority and shall directly inform the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor that it has done so.

5. Subject to paragraph 1, requests or communications under Articles 164 to 168, which do not involve action which is coercive, may be directly transmitted by the competent authorities of the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor to the United Kingdom, in respect of Gibraltar, if it is the requested actor or the requested Member State.

6. Draft requests or communications under this Chapter may be sent directly by the judicial authorities of the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor to the judicial authorities of the United Kingdom, in respect of Gibraltar, if it is the requested actor or the requested Member State prior to a formal request

to ensure that the formal request can be dealt with efficiently upon receipt and that it contains sufficient information and supporting documentation for it to meet the requirements of the law of the United Kingdom, in respect of Gibraltar, if it is the requested actor or the requested Member State.

Article 184. Form of Request and Languages

1. All requests under this Chapter shall be made in writing. They may be transmitted electronically, or by any other means of telecommunication, provided that the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, is prepared, upon request, to produce a written record of such communication and the original at any time.

2. Requests under paragraph 1 shall be made in one of the official languages of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor or in any other language notified by or on behalf of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor in accordance with paragraph 3.

3. The United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on the Circulation of Persons of the language or languages which, in addition to the official language or languages of that Member State or of the United Kingdom, in respect of Gibraltar, may be used for making requests under this Chapter.

4. Requests under Article 169 for provisional measures shall be made using the using the prescribed form at Annex 16.

5. Requests under Article 171 for confiscation shall be made using the prescribed form at Annex 16.

6. The Specialised Committee on the Circulation of Persons may amend the forms in Annex 16, referred to in paragraphs 4 and 5, as may be necessary.

7. The Specialised Committee on the Circulation of Persons shall adopt any modifications to the forms in Annex 16 as may be necessary to reflect changes made to Annex 46 of the Trade and Cooperation Agreement.

8. The United Kingdom, in respect of Gibraltar, and the Union, acting on behalf of any of its Member States may each notify the Specialised Committee on the Circulation of Persons that it requires the translation of any supporting documents into one of the official languages of the requested Member State or of the United Kingdom, in respect of Gibraltar, or any other language indicated in accordance with paragraph 3. In the case of requests pursuant to Article 169(4), such translation of supporting documents may be provided to the requested Member State or to the United Kingdom, in respect of Gibraltar, if it is the requested actor within 48 hours after transmitting the request, without prejudice to the time limits provided for in Article 169(4).

Article 185. Legalisation

Documents transmitted in application of this Chapter shall be exempt from all legalisation formalities.

Article 186. Content of Request

1. Any request for cooperation under this Chapter shall specify:

(a) the authority making the request and the authority carrying out the investigations or proceedings;

(b) the object of and the reason for the request;

(c) the matters, including the relevant facts (such as date, place and circumstances of the offence) to which the investigations or proceedings relate, except in the case of a request for notification;

(d) insofar as the cooperation involves action which is coercive:

(i) the text of the statutory provisions or, where that is not possible, a statement of the relevant applicable law; and

(ii) an indication that the measure sought or any other measures having similar effects could be taken in the jurisdiction of the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, under its own domestic law;

(e) where necessary and in so far as possible:

(i) details of the person or persons concerned, including name, date and place of birth, nationality and location, and, in the case of a legal person, its seat; and

(ii) the property in relation to which cooperation is sought, its location, its connection with the person or persons concerned, any connection with the offence, as well as any available information about other persons, interests in the property; and

(f) any particular procedure the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, wishes to be followed.

2. A request for provisional measures under Article 169 in relation to seizure of property on which a confiscation order consisting of the requirement to pay a sum of money may be realised shall also indicate a maximum amount for which recovery is sought in that property.

3. In addition to the information referred to in paragraph 1 of this Article, any request under Article 171 shall contain:

(a) in the case of point (a) of Article 171(1):

(i) a certified true copy of the confiscation order made by the court in the requesting Member State or in Gibraltar, if the United Kingdom, in respect of Gibraltar, is the requesting actor, and a statement of the grounds on the basis of which the order was made, if they are not indicated in the order itself;

(ii) an attestation by the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, that the confiscation order is enforceable and not subject to ordinary means of appeal;

(iii) information as to the extent to which the enforcement of the order is requested; and

(iv) information as to the necessity of taking any provisional measures;

(b) in the case of point (b) of Article 171(1), a statement of the facts relied upon by the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, sufficient to enable the United Kingdom, in respect of Gibraltar, if it is the requested actor, or the requested Member State to seek the order under its domestic law;

(c) where third parties have had the opportunity to claim rights, documents demonstrating that this has been the case.

Article 187. Defective Requests

1. If a request does not comply with the provisions of this Chapter or the information supplied is not sufficient to enable the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, to deal with the request, that Member State or the United Kingdom, in respect of Gibraltar, may ask the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State to amend the request or to complete it with additional information.

2. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, may set a time limit for the receipt of such amendments or information.

3. Pending receipt of the requested amendments or information in relation to a request under Article 171, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, may take any of the measures referred to in Articles 164 to 170.

Article 188. Plurality of Requests

1. Where the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, receives more than one request under Article 169 or Article 171 in respect of the same person or property, the plurality of requests shall not prevent that Member State or the United Kingdom, in respect of Gibraltar, from dealing with the requests involving the taking of provisional measures.

2. In the case of a plurality of requests under 171, the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall consider consulting the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State.

Article 189. Obligation to Give Reasons

The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall give reasons for any decision to refuse, postpone or make conditional any cooperation under this Chapter.

Article 190. Information

1. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, shall promptly inform the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State of:

(a) the action initiated on the basis of a request under this Chapter;

(b) the final result of the action carried out on the basis of a request under this Chapter;

(c) a decision to refuse, postpone or make conditional, in whole or in part, any cooperation under this Chapter;

(d) any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly; and

(e) in the event of provisional measures taken pursuant to a request under Articles 164 to Article 169, such provisions of its domestic law as would automatically lead to the lifting of the provisional measure.

2. The requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, shall promptly inform the United Kingdom, in respect of Gibraltar, if it is the requested actor, or the requested Member State of:

(a) any review, decision or any other fact by reason of which the confiscation order ceases to be wholly or partially enforceable; and

(b) any development, factual or legal, by reason of which any action under this Chapter is no longer justified.

3. Where the United Kingdom, in respect of Gibraltar, on the basis of the same confiscation order, requests confiscation in more than one Member State, it shall inform all Member States which are affected by the enforcement of the order about the request.

4. Where a Member State, on the basis of the same confiscation order, requests confiscation in the United Kingdom, in respect of Gibraltar, and in one or more Member States, it shall inform the United Kingdom, in respect of Gibraltar, and all Member States which are affected by the enforcement of the order about the request.

Article 191. Restriction of Use

1. The requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, may make the execution of a request dependent on the condition that the information or evidence obtained is not, without its prior consent, to be used or transmitted by the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State for investigations or proceedings other than those specified in the request.

2. Without the prior consent of the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, information or evidence provided by it under this Chapter shall not be used or transmitted by the United Kingdom, in respect of Gibraltar, if it is the requesting actor, or the requesting Member State in investigations or proceedings other than those specified in the request.

3. Personal data communicated under this Chapter may be used by the Member State to which they have been transferred or by the United Kingdom, in respect of Gibraltar, if transferred to it:

(a) for the purposes of proceedings to which this Chapter applies;

(b) for other judicial and administrative proceedings directly related to proceedings referred to under point (a);

(c) for preventing an immediate and serious threat to public security; or

(d) for any other purpose, only with the prior consent of the communicating Member State or the United Kingdom, in respect of Gibraltar, if it made the communication, unless the Member State concerned or the United Kingdom, in respect of Gibraltar, as the case may be, has obtained the consent of the data subject.

4. This Article shall also apply to personal data not communicated but obtained otherwise under this Chapter.

5. This Article does not apply to personal data obtained by the United Kingdom, in respect of Gibraltar, or a Member State under this Chapter and, in the case of the United Kingdom, originating from Gibraltar or, in the case of a Member State, originating from that Member State.

Article 192. Confidentiality

1. The requesting Member State or the United Kingdom, in respect of Gibraltar, may require that the United Kingdom, in respect of Gibraltar, if it is the requested actor, or the requested Member State keep confidential the facts and substance of the request, except to the extent necessary to execute the request. If the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor, cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor.

2. The requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, shall, if not contrary to basic principles of its domestic law and if so requested, keep confidential any evidence and information provided by the United Kingdom, in respect of Gibraltar, if it is the requested actor, or the requested Member State, except to the extent that its disclosure is necessary for the investigations or proceedings described in the request.

3. Subject to the provisions of its domestic law, a Member State or the United Kingdom, in respect of Gibraltar, which has received spontaneous information under Article 168 shall comply with any requirement of confidentiality as required by the Member State which supplies the information or the United Kingdom, in respect of Gibraltar, if it is the supplier. If the receiving Member State or the United Kingdom, in respect of Gibraltar, if it is the recipient of the information, cannot comply with such a requirement, it shall promptly inform the United Kingdom, in respect of Gibraltar, if it is the one transmitting the information, or the transmitting Member State.

Article 193. Costs

The ordinary costs of complying with a request shall be borne by the requested Member State or the United Kingdom, in respect of Gibraltar, if it is the requested actor. Where costs of a substantial or extraordinary nature are necessary to comply with a request, the requesting and requested actors shall consult in order to decide the conditions on which the request is to be executed and how the costs will be borne.

Article 194. Damages

1. Where legal action on liability for damages resulting from an act or omission in relation to cooperation under this Chapter has been initiated by a person, the Member States concerned or the United Kingdom, in respect of Gibraltar, as the case may be, shall consider consulting each other, where appropriate, to determine how to apportion any sum of damages due.

2. Where the United Kingdom, in respect of Gibraltar, or a Member State has become the subject of litigation for damages, it shall endeavour to inform the other Member State(s) or the United Kingdom, in respect of Gibraltar, of such litigation if they might have an interest in the case.

Article 195. Legal Remedies

1. The United Kingdom, in respect of Gibraltar, and the Member States shall ensure that persons affected by measures under Articles 169 to 172 have effective legal remedies in order to preserve their rights.

2. The substantive reasons for requested measures under Articles 169 to 172 shall not be challenged before a court in the requested Member State or in Gibraltar, if the United Kingdom, in respect of Gibraltar, is the requested actor.

Title VI. ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING

Article 196. Objective

The objective of this Title is to support and strengthen action by the United Kingdom, in respect of Gibraltar, and the Union to prevent and combat money laundering and terrorist financing.

Article 197. Principles

1. The Parties agree to support international efforts to prevent and combat money laundering and terrorist financing.

2. The Parties recognise the need to cooperate in preventing the use of their financial systems to launder the proceeds of all criminal activity, including drug trafficking and corruption, and to combat terrorist financing.

3. The Parties recognise the importance of information exchange in relation to money laundering, associated predicate offences and terrorist financing.

4. The Parties recognise the need to take into account the standards and recommendations of the Financial Action Task

Force in their respective anti-money laundering and counter-terrorist financing regimes.

Article 198. Non-regression from Existing Measures to Prevent and Combat Money Laundering and Terrorist Financing

1. The Parties affirm the right of each Party to set its policies and priorities in the areas covered by this Chapter, to determine the levels necessary to prevent and combat money laundering and terrorist financing it deems appropriate and to adopt and modify its law and policies in a manner consistent with each Party's international commitments, including those under this Title.

2. The United Kingdom, in respect of Gibraltar, shall not weaken or reduce its anti-money laundering and terrorist financing measures below the levels in place in the Union by the entry into force of the Agreement listed in Annex 17, including by failing to effectively enforce its law and standards.

3. The Parties shall continue to strive to increase their respective anti-money laundering and terrorist financing protection level referred to in this Title.

4. The Parties shall regularly review the need to enhance the measures to prevent and combat money laundering and terrorist financing referred to in paragraph 2, as well as every time one Party amends its legislation and affects protection in a manner incompatible with this Title.

5. In case differences in level playing field between the Parties, leading to distortions in the prevention of money laundering and terrorist financing, are arising as a result of significant divergences between the Parties in their domestic legislation, a consultation within the Specialised Committee on Circulation of Persons shall take place with a view to finding a mutually satisfactory resolution to the matter within 45 days.

6. If no mutually satisfactory resolution has been found during the consultation referred to in paragraph 5, either Party may take appropriate rebalancing measures to address the situation. Such measures shall be restricted with respect to their scope and duration to what is strictly necessary and proportionate in order to remedy the situation. Priority shall be given to such measures as will least disturb the functioning of this Agreement. A Party's assessment of those impacts shall be based on reliable evidence and not merely on conjecture or remote possibility.

Part THREE. ECONOMY AND TRADE

Title I. LEVEL PLAYING FIELD FOR OPEN AND FAIR COMPETITION AND SUSTAINABLE DEVELOPMENT

Chapter 1. GENERAL PRINCIPLES

Article 199. Principles and Objectives

1. The Parties recognise that trade and investment between the Union and the United Kingdom, in respect of Gibraltar, under the terms set out in this Agreement, require conditions that ensure a level playing field for open and fair competition between the Parties and that ensure that trade and investment take place in a manner conducive to sustainable development.

2. The Parties recognise that sustainable development encompasses economic development, social development and environmental protection, all three being interdependent and mutually reinforcing, and affirm their commitment to promoting the development of international trade and investment in a way that contributes to the objective of sustainable development.

3. Each Party reaffirms its ambition of achieving economy-wide climate neutrality by 2050.

4. The Parties affirm their common understanding that their economic relationship, as it pertains to Gibraltar, can only deliver benefits in a mutually satisfactory way if the commitments relating to a level playing field for open and fair competition stand the test of time, by preventing distortions of trade or investment, and by contributing to sustainable development. The Parties are determined to maintain and improve their respective high standards in the areas covered by this Title.

5. The Specialised Committee on Economy and Trade may include additional areas or lay down higher standards than those referred to in paragraph 4 with a view to ensuring the maintenance of a level playing field between the Parties over time.

Article 200. Right to Regulate, Precautionary Principle and Scientific and Technical Information

1. The Parties affirm the right of each Party to set its policies and priorities in the areas covered by this Title, to determine the levels of protection it deems appropriate and to adopt or modify its law and policies in a manner consistent with each Party's international commitments, including its commitments under this Title.

2. The Parties acknowledge that, in accordance with the precautionary principle, where there are reasonable grounds for concern that there are potential threats of serious or irreversible damage to the environment or human health, the lack of full scientific certainty shall not be used as a reason for preventing a Party from adopting appropriate measures to prevent such damage.

3. When preparing or implementing measures aimed at protecting the environment or labour conditions that may affect trade or investment, each Party shall take into account relevant and available scientific and technical information, international standards, guidelines and recommendations.

Chapter 2. STATE AID CONTROL

Article 201. Substantive Rules

1. This Chapter and Annex 18 apply to state aid granted by the United Kingdom, in respect of Gibraltar, to one or more economic actors that:

(a) produce, transform or supply goods and the aid has, or could have, an effect on trade or investment between the Union and Gibraltar; or

(b) are engaged in the provision of services insofar as the aid has, or could have, an effect on trade in goods or investment between the Union and Gibraltar.

2. The Union is committed to maintaining its State aid control system in accordance with Articles 93, 106, 107 and 108 of the Treaty on the Functioning of the European Union, applying it, where relevant, to any aid that has, or could have, an effect on trade in goods or investment between the Union and Gibraltar.

Article 202. Exceptions

This Chapter does not apply to state aid:

(a) covered by Part IV or Annex 2 of the Agreement on Agriculture, part of Annex 1A to the WTO Agreement;

(b) related to trade in fish and fish products; or related to the audio-visual sector.

Article 203. Transparency

1. With respect to any state aid granted or maintained within its territory, each Party shall within six months from the granting of the state aid make publicly available, on an official website or a public database, the following information:

(a) the legal basis and policy objective or purpose of the state aid;

(b) the name of the recipient of the state aid where available;

(c) the date of the grant of the state aid, the duration of the state aid and any other time limits attached to the state aid; and

(d) the amount of the state aid or the amount budgeted for the state aid.

2. For state aid in the form of tax measures, information shall be made public within one year from the date the tax declaration is due. The transparency obligations for state aid in the form of tax measures concern the same information as listed in paragraph 1, except for the information required under point (d) of that paragraph, which may be provided as a range.

3. The obligations in this Article are without prejudice to the obligations of the Parties under their respective laws concerning the freedom of information or access to documents.

Article 204. Use of State Aid

Each Party shall ensure that economic actors use state aid only for the specific purpose for which it is granted.

Article 205. Independent Authority and Cooperation

1. Each Party shall establish or maintain an operationally independent authority or body with an appropriate role in its state aid control system. That independent authority or body shall have the necessary guarantees of independence in exercising its operational functions and shall act impartially.

2. Each Party shall ensure that any intended measure to grant or alter state aid is notified to their respective independent authority or body and that such intended measure is not put into effect before the independent authority or body has authorised it.

3. A Party may exempt certain categories of state aid from the obligations laid down in the second paragraph, provided that such exemptions are transparent and based on objective criteria such as, but not limited to, the size of the beneficiaries and quantitative thresholds. In the case of the United Kingdom, in respect of Gibraltar, such exemptions shall comply with Annex 18.

4. Each Party shall ensure that its independent authority or body has the power to order recovery of any state aid granted without prior authorisation by the independent authority or body.

5. Each Party shall encourage its independent authority or body to cooperate with the other Party's independent authority or body on issues of common interest within their respective functions, including the application of Articles 201 to 204 as applicable, within the limits established by their respective legal frameworks. The Parties, or their respective independent authorities or bodies, may agree upon a separate framework regarding cooperation between those independent authorities or bodies.

6. Paragraph 2 shall not apply to any intended measure to grant or alter state aid referred to in Article 201 by an Act of the Gibraltar Parliament. The United Kingdom, in respect of Gibraltar, shall ensure that any such intended measure is notified to its independent authority or body. The United Kingdom, in respect of Gibraltar, shall ensure that its independent authority or body has the power to issue an opinion on any such intended measure. The United Kingdom, in respect of Gibraltar, shall have regard to such an opinion and, where applicable, propose amendments to the Act in question for the Gibraltar Parliament to consider.

7. Paragraph 4 shall not apply to any measure to grant or alter state aid referred to in Article 201 by an Act of the Gibraltar Parliament. The United Kingdom, in respect of Gibraltar, shall ensure that its independent authority or body has the power to issue an opinion on any such measure. The United Kingdom, in respect of Gibraltar, shall have regard to such an opinion and, where applicable, propose amendments to the Act in question for the Gibraltar Parliament to consider.

Article 206. Courts and Tribunals

1. Each Party shall ensure that, in accordance with its constitutional order, its courts or tribunals are competent to:

(a) review decisions on state aid taken by a granting authority or, where relevant, the independent authority or body, in accordance with its state aid control system;

(b) review any other relevant decisions of the independent authority or body and any relevant failure to act;

(c) impose remedies that are effective, in relation to point (a) or (b), including the suspension, prohibition or requirement of action by the granting authority, the award of damages, and the recovery of a state aid from its beneficiary with interest.

(d) hear claims from interested parties in respect of state aid where that interested party has standing to bring a claim in respect of a state aid under that Party's law.

2. For the purposes of this Article and Article 207, "interested party" means any natural or legal person, economic actor or association of economic actors whose interest might be affected by the granting of a state aid, in particular the beneficiary, economic actors competing with the beneficiary or relevant trade associations.

3. Point (c) of paragraph 1 shall not apply to any measure to grant or alter state aid referred to in Article 201 on the basis of an Act of the Gibraltar Parliament save that, if a court or tribunal is satisfied that such aid is incompatible with this Agreement, it may make a declaration of that incompatibility. The United Kingdom, in respect of Gibraltar, shall have regard

to such a declaration and propose amendments to the Act in question for the Gibraltar Parliament to consider or take other appropriate steps, where applicable.

Article 207. Recovery

1. Each Party shall have in place an effective mechanism of recovery in respect of state aid in accordance with the following provisions, without prejudice to the power of the independent authority or body as set out in Article 205 and other remedies that exist in that Party's law.

2. Without prejudice to paragraph 3, each Party shall ensure that, provided that an interested party has challenged a decision of that Party to grant state aid before a court or a tribunal within the relevant time period, in accordance with that Party's state aid control system, recovery may be ordered if a court or tribunal of that Party makes a finding of a material error of law or fact, in that:

(a) a measure constituting state aid was not treated by the granting authority as a state aid;

(b) the granting authority has not complied with the relevant state aid control system that binds it; or

(c) the granting authority has, by deciding to grant that state aid, acted outside the scope of its powers or misused those powers in accordance with this Chapter.

3. Each Party shall suspend payment of any new state aid to a beneficiary until the aid granted to that beneficiary, in respect of which an order for recovery has been made, has been fully recovered, including any recovery interests due.

4. In accordance with Articles 205(6) and (7) and 206(3), recovery of a state aid shall not be required where such aid is granted or altered on the basis of an Act of the Gibraltar Parliament.

Article 208. Consultations

1. If a Party considers that state aid has been granted by the other Party or that there is clear evidence that the other Party intends to grant state aid and that the granting of the state aid has or could have a negative effect on trade in goods or investment between the Parties, it may request the other Party to provide an explanation of how this Agreement has been respected with regard to that state aid.

2. A Party may also request the information listed in Article 203 to the extent that the information has not already been made publicly available on an official website or a public database as referred to in Article 203, or to the extent that the information has not been made available in an easily and readily accessible manner.

3. The other Party shall provide the requested information in writing no later than 45 days from receipt of the request. If any requested information cannot be provided, that Party shall explain the absence of such information in its written response.

4. If, after receiving the information requested, the requesting Party still considers that the state aid granted or intended to be granted by the other Party has or could have a negative effect on trade in goods or investment between the Parties, the requesting Party may request consultations within the Specialised Committee on Economy and Trade. The request shall be in writing and shall include an explanation of the requesting Party's reasons for requesting the consultation.

5. The Specialised Committee on Economy and Trade shall make every attempt to arrive at a mutually satisfactory resolution of the matter. It shall hold its first meeting within 30 days of the request for consultation.

6. The timeframes for the consultations referred to in paragraphs 3 and 5 may be extended by agreement between the Parties.

Article 209. Remedial Measures

1. A Party may deliver to the other Party a written request for information and consultations regarding a state aid that it considers causes, or there is a serious risk that it will cause, a significant negative effect on trade in goods or investment between the Parties. The requesting Party should provide in that request all relevant information to enable the Parties to find a mutually acceptable solution, including a description of the state aid and the concerns of the requesting Party regarding its effect on trade in goods or investment.

2. No later than 30 days from the date of delivery of the request, the requested Party shall deliver a written response providing the requested information to the requesting Party, and the Parties shall enter into consultations, which shall be deemed concluded 60 days from the date of delivery of that request, unless the Parties agree otherwise. Such consultations,

and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential and shall be without prejudice to the rights of either Party in any further proceedings.

3. No earlier than 60 days from the date of delivery of the request referred to in paragraph 1, the requesting Party may unilaterally take appropriate remedial measures if there is evidence that a state aid of the requested Party causes, or there is a serious risk that it will cause, a significant negative effect on trade in goods or investment between the Parties.

4. No earlier than 45 days from the date of delivery of the request referred to in paragraph 1, the requesting Party shall notify the requested Party of the remedial measures that it intends to take in accordance with paragraph 3. The requesting Party shall provide all relevant information in relation to the measures that it intends to take to enable the Parties to find a mutually acceptable solution. The requesting Party may not take those remedial measures earlier than 15 days from the date of delivery of the notification of those measures to the requested Party.

5. A Party's assessment of the existence of a serious risk of a significant negative effect shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances that would create a situation in which the state aid would cause such a significant negative effect must be clearly predictable.

6. A Party's assessment of the existence of a state aid or of a significant negative effect on trade in goods or investment between the Parties caused by the state aid shall be based on reliable evidence and not merely on conjecture or remote possibility, and shall relate to identifiable goods or economic actors, including, if relevant, in the case of state aid schemes.

7. The Specialised Committee on Trade and Economy may maintain an illustrative list of what would amount to a significant negative effect on trade in goods or investment between the Parties within the meaning of this Article. This shall be without prejudice to the right of the Parties to take remedial measures.

8. The remedial measures taken pursuant to paragraph 3 shall be restricted to what is strictly necessary and proportionate in order to remedy the significant negative effect caused or to address the serious risk of such an effect. Priority shall be given to measures that will least disturb the functioning of this Agreement.

9. Within five days from the date on which the remedial measures referred to in paragraph 3 enter into effect and without having prior recourse to consultations in accordance with Article 304, the notified Party may request, in accordance with Article 305(2), the establishment of an arbitration tribunal by means of a written request delivered to the requesting Party in order for the arbitration tribunal to decide whether:

(a) a remedial measure taken by the requesting Party is inconsistent with paragraphs 3 or 5;

(b) the requesting Party did not participate in the consultations after the requested Party delivered the requested information and agreed to the holding of such consultations; or

(c) there was a failure to take or notify a remedial measure in accordance with the time periods referred to in paragraph 3 or 4 respectively.

That request shall not have a suspensive effect on the remedial measures. Furthermore, the arbitration tribunal shall not assess the application by a Party of its state aid control system.

10. The arbitration tribunal established following the request referred to in paragraph 9 shall conduct its proceedings in accordance with Article 327 and deliver its final ruling within 30 days from its establishment.

11. In the case of a finding against the respondent Party, the respondent Party shall, at the latest 30 days from the date of delivery of the ruling of the arbitration tribunal, deliver a notification to the complaining Party of any measure that it has taken to comply with that ruling.

12. Following a finding against the respondent Party in the procedure referred to in paragraph 10 of this Article, the complaining Party may request the arbitration tribunal, within 30 days from its ruling, to determine a level of suspension of obligations under this Agreement or a supplementing agreement not exceeding the level equivalent to the nullification or impairment caused by the application of the remedial measures, if it finds that the inconsistency of the remedial measures with paragraph 3 or 8 of this Article is significant. The request shall propose a level of suspension of obligations in accordance with the principles set out in Article 316. The complaining Party may suspend obligations under this Agreement or a supplementing agreement in accordance with the level of suspension of obligations determined by the arbitration tribunal. Such suspension shall not be applied sooner than 15 days following such ruling.

13. A Party shall not invoke the WTO Agreement or any other international agreement to preclude the other Party from taking measures pursuant to this Article, including where those measures consist in the suspension of obligations under this Agreement or a supplementing agreement.

14. For the purposes of assessing whether imposing or maintaining remedial measures on imports of the same product is restricted to what is strictly necessary or proportionate for the purposes of this Article, a Party:

(a) shall take into account countervailing measures applied or maintained in accordance with the requirements of the SCM Agreement and pursuant to a fair and transparent process; and

(b) may take into account anti-dumping measures applied or maintained in accordance with the requirements of the Anti-Dumping Agreement and pursuant to a fair and transparent process.

15. If the Party against which remedial measures were taken does not submit a request pursuant to paragraph 9 within the time period laid down in that paragraph, that Party may initiate the arbitration procedure referred to in Article 305 to challenge a remedial measure on the grounds set out in paragraph 9 without having prior recourse to consultations in accordance with Article 304. An arbitration tribunal shall treat the issue as a case of urgency for the purpose of Article 310.

16. For the purposes of the proceedings under paragraph 9 or 15, in assessing whether a remedial measure is strictly necessary or proportionate, the arbitration tribunal shall pay due regard to the principles set out in paragraphs 5, 6 and 13.

Article 210. Dispute Settlement

1. Subject to paragraphs 2 and 3, Title I of Part Six applies to disputes between the Parties concerning the interpretation and application of this Chapter, except for Articles 205 and 206.

2. An arbitration tribunal shall have no jurisdiction regarding:

(a) an individual state aid measure, including whether such a measure has complied with the relevant Party's state aid control system; and

(b) whether the recovery remedy within the meaning of Article 207 has been correctly applied in any individual case.

3. Title I of Part Six shall apply to Article 209 in accordance with that Article and Article 327.

Chapter 3. TAXATION

Article 211. Good Governance

The Parties recognise and commit to implementing the principles of good governance in the area of taxation, in particular the global standards on tax transparency and exchange of information and fair tax competition. The Parties reiterate their support for the Organisation for Economic and Cooperation Development (OECD) Base Erosion and Profit Shifting (BEPS) Action Plan and affirm their commitment to implementing the OECD minimum standards against BEPS. The Parties will promote good governance in tax matters, improve international cooperation in the area of taxation and facilitate the collection of tax revenues.

Article 212. Taxation Standards

1. A Party shall not weaken or reduce the level of protection provided for in its legislation on 31 December 2020 below the level provided for by the standards and rules which have been agreed in the OECD at the end of the transition period, in relation to:

(a) the exchange of information, whether upon request, spontaneously or automatically, concerning financial accounts, cross-border tax rulings, country-by-country reports between tax administrations, and potential cross-border tax planning arrangements;

(b) rules on interest limitation, controlled foreign companies and hybrid mismatches.

2. A Party shall not weaken or reduce the level of protection provided for in its legislation on 31 December 2020 in respect of public country-by-country reporting by credit institutions and investment firms, other than small and non-interconnected investment firms.

Article 213. Dispute Settlement

This Chapter shall not be subject to dispute settlement under Title I of Part 6.

Chapter 4. LABOUR AND SOCIAL STANDARDS

Article 214. Definition

1. For the purposes of this Chapter, "labour and social levels of protection" means the levels of protection provided overall in a Party's law and standards (1), in each of the following areas (2):

(1) For greater certainty, this Chapter does not apply to the Parties' law and standards relating to social security and pensions.

(2) The levels of protection are the internationally recognised core labour standards as defined in the fundamental ILO Conventions referred to in Article LPFS.19(2).

(a) fundamental rights at work;

(b) occupational health and safety standards;

(c) fair working conditions and employment standards;

(d) information and consultation rights at company level; or

(e) restructuring of undertakings.

2. For the Union, "labour and social levels of protection" means labour and social levels of protection that are applicable to and in, and are common to, all Member States.

Article 215. Non-regression from Levels of Protection

1. The Parties affirm the right of each Party to set its policies and priorities in the areas covered by this Chapter, to determine the labour and social levels of protection it deems appropriate and to adopt or modify its law and policies in a manner consistent with each Party's international commitments, including those under this Chapter.

2. A Party shall not weaken or reduce, in a manner affecting trade or investment between the Union and the United Kingdom, in respect of Gibraltar, its labour and social levels of protection below the levels in place at the end of the transition period, including by failing to effectively enforce its law and standards.

3. The Parties recognise that each Party retains the right to exercise reasonable discretion and to make bona fide decisions regarding the allocation of labour enforcement resources with respect to other labour law determined to have higher priority, provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.

4. The Parties shall continue to strive to increase their respective labour and social levels of protection referred to in this Chapter.

Article 216. Enforcement

For the purposes of enforcement as referred to in Article 215, each Party shall have in place and maintain a system for effective domestic enforcement and, in particular, an effective system of labour inspections in accordance with its international commitments relating to working conditions and the protection of workers; ensure that administrative and judicial proceedings are available that allow public authorities and individuals with standing to bring timely actions against violations of labour law and social standards; and provide for appropriate and effective remedies, including interim relief, as well as where appropriate, apply proportionate and dissuasive sanctions in line with their domestic law. In the domestic implementation and enforcement of Article 215, each Party shall respect the role and autonomy of the social partners at a domestic level, where relevant, in line with applicable law and practice.

Article 217. Dispute Settlement

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the application of this Chapter.

2. By way of derogation from Title I of Part Six, in the event of a dispute between the Parties regarding the application of this Chapter, the Parties shall have recourse exclusively to the procedures established under Articles 235 to 237.

Chapter 5. ENVIRONMENT AND CLIMATE

Article 218. Definitions

1. For the purposes of this Chapter, "environmental and climate levels of protection" means the levels of protection provided overall in a Party's law which have the purpose of protecting the environment and climate, including the prevention of a danger to human life or health from environmental impacts and fighting against climate change, in each of the following areas:

(a) access to environmental information;

(b) public participation and access to justice in environmental matters;

(c) environmental impact assessment and strategic environmental assessment;

(d) air emissions and air quality;

(e) nature and biodiversity conservation;

(f) waste management, including the port reception facilities where relevant;

(g) noise emissions;

(h) the protection and preservation of the aquatic and marine environment, including the use of port reception facilities where relevant;

(i) the prevention, reduction and elimination of risks to human health or the environment arising from the production, use, release or disposal of chemical substances; or

(j) climate change in particular emissions and removal of greenhouse gases, including the effective carbon pricing systems or equivalent measures to reduce emissions.

2. For the Union, "environmental and climate levels of protection" means environmental and climate levels of protection that are applicable to and in, and are common to, all Member States.

3. For the United Kingdom, in respect of Gibraltar, "environmental and climate levels of protection" means environmental and climate levels of protection in Gibraltar domestic law, including international commitments which have been extended to Gibraltar.

Article 219. Levels of Protection

1. The Parties affirm the right of each Party to set its policies and priorities in the areas covered by this Chapter, to determine the environmental and climate levels of protection it deems appropriate, and to adopt or modify its law and policies in a manner consistent with each Party's international commitments, including those under this Chapter.

2. The Parties recognise that each Party retains the right to exercise reasonable discretion and to make bona fide decisions regarding the allocation of environmental enforcement resources with respect to other environmental law and climate policies determined to have higher priorities, provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.

3. The Union shall not weaken or reduce its environmental and climate levels of protection below the levels in place on 31 December 2020 including by failing to effectively enforce its environmental and climate law.

4. The United Kingdom, in respect of Gibraltar, shall uphold environmental and climate levels of protection that are equivalent to the levels in place in the Union, including by effectively enforcing environmental and climate law applicable to and in Gibraltar.

Article 220. Carbon Pricing

1. Each Party shall have in place an effective system of carbon pricing or equivalent measures to reduce emissions by the

date of the entry into force the agreement.

2. The United Kingdom, in respect of Gibraltar, shall ensure that the system of carbon pricing or equivalent measures to reduce emissions applying in Gibraltar shall have an equivalent scope and effectiveness as the one in place in the Union at the time of the entry into force of the agreement.

3. As regards aviation, the scope of the Union system of carbon pricing shall cover all flights between the European Economic Area and Gibraltar. The scope of the United Kingdom system of carbon pricing shall cover all flights between the United Kingdom and Gibraltar.

4. The Specialised Committee on Economy and Trade shall regularly be informed about the effective implementation of paragraphs 1 to 3.

5. The United Kingdom, in respect of Gibraltar, shall review the implementation of its system of carbon pricing or equivalent measures in 2030 and regularly in the context of progression beyond its current frameworks to reduce emissions.

Article 221. Environmental and Climate Principles

Taking into account the fact that the Union and Gibraltar share a common biosphere in respect of cross-border pollution, the Union and the United Kingdom, in respect of Gibraltar, commit to respecting the internationally recognised environmental principles to which they have committed, such as in the Rio Declaration on Environment and Development, adopted at Rio de Janeiro on 14 June 1992 (the "1992 Rio Declaration on Environment and Development") and multilateral environmental agreements which apply in relation to the Union and to the United Kingdom which have been extended to Gibraltar, including the United Nations Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity, done at Rio de Janeiro on 5 June 1992 (the "Convention on Biological Diversity"), in particular:

(a) the principle that environmental protection should be integrated into the making of policies, including through impact assessments;

(b) the principle of preventative action to avert environmental damage;

(c) the precautionary principle referred to in Article 200;

(d) the principle that environmental damage should as a priority be rectified at source; and

(e) the polluter pays principle.

Article 222. Enforcement

For the purposes of enforcement, each Party shall, in accordance with its law, ensure that:

(a) domestic authorities competent to enforce the relevant law with regard to environment and climate give due consideration to alleged violations of such law that come to their attention; those authorities shall have adequate and effective remedies available to them, including injunctive relief as well as proportionate and dissuasive sanctions, if appropriate; and

(b) domestic administrative or judicial proceedings are available to natural and legal persons with a sufficient interest to bring actions against violations of such law and to seek effective remedies, including injunctive relief, and that the proceedings are not prohibitively costly and are conducted in a fair, equitable and transparent way.

Article 223. Dispute Settlement

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the application of this Chapter.

2. By way of derogation from Title I of Part Six, in the event of a dispute between the Parties regarding the application of this Chapter, the Parties shall have recourse exclusively to the procedures established under Articles 235 to 237.

Chapter 6. OTHER INSTRUMENTS FOR TRADE AND SUSTAINABLE DEVELOPMENT

Article 224. Context and Objectives

1. The Parties recall Agenda 21, adopted at Rio de Janeiro on 13 June 1992, and the 1992 Rio Declaration on Environment and Development, the Johannesburg Plan of Implementation of the World Summit on Sustainable Development of 2002, the International Labour Organization (ILO) Declaration on Social Justice for a Fair Globalization, adopted at Geneva on 10 June 2008 by the International Labour Conference at its 97th Session, as amended in 2022 (the "2008 ILO Declaration on Social Justice for a Fair Globalization"), the Outcome Document of the UN Conference on Sustainable Development of 2012 entitled "The Future We Want", endorsed by the UN General Assembly Resolution 66/288 adopted on 27 July 2012, and the UN 2030 Agenda for Sustainable Development, adopted by the UN General Assembly Resolution 70/1 on 25 September 2015 and its Sustainable Development Goals.

2. In light of paragraph 1, the objective of this Chapter is to enhance the integration of sustainable development, notably its labour and environmental dimensions, in the Parties' trade and investment relationship and in this respect to complement the commitments of the Parties under Chapters 4 and 5 of this Title.

Article 225. Transparency

The Parties stress the importance of ensuring transparency as a necessary element to promote public participation and of making information public within the context of this Chapter. In accordance with their laws and regulations and the provisions of this Chapter, each Party shall:

(a) ensure that any measure of general application pursuing the objectives of this Chapter is administered in a transparent manner, including by providing the public with reasonable opportunities and sufficient time to comment, and by publishing such measures;

(b) ensure that the general public is given access to relevant environmental information held by or for public authorities, as well as ensuring the active dissemination of that information to the general public by electronic means;

(c) encourage public debate with and among non-state actors as regards the development and definition of policies that may lead to the adoption of law relevant to this Chapter by its public authorities; this includes, in relation to the environment, public participation in projects, plans and programmes; and

(d) promote public awareness of its laws and standards relevant to this Chapter, as well as enforcement and compliance procedures, by taking steps to further the knowledge and understanding of the public; in relation to labour laws and standards, this includes workers, employers and their representatives.

Article 226. Multilateral Labour Standards and Agreements

1. The Parties affirm their commitment to promoting the development of international trade in a way that is conducive to decent work for all, as expressed in the 2008 ILO Declaration on Social Justice for a Fair Globalization.

2. In accordance with the ILO Constitution and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted at Geneva on 18 June 1998 by the International Labour Conference at its 86th Session, as amended in 2022, each Party commits to respecting, promoting and effectively implementing the principles concerning the fundamental rights, as defined in the fundamental ILO conventions, which are:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour;

(d) the elimination of discrimination in respect of employment and occupation; and

(e) a safe and healthy working environment.

3. Each Party commits to effectively implementing all the ILO conventions that the United Kingdom has extended to Gibraltar and the Member States have respectively ratified.

4. Each Party shall make continued and sustained efforts to ratify or extend to Gibraltar, as the case may be, the fundamental ILO conventions if they have not yet done so.

5. The Parties shall exchange information, regularly and as appropriate, on the respective situations and progress of the Member States and of the United Kingdom, in respect of Gibraltar, with regard to the ratification of ILO conventions or protocols classified as up-to-date by the ILO and of other relevant international instruments.

6. Each Party shall continue to promote, through its laws and practices, the ILO Decent Work Agenda as set out in the 2008 ILO Declaration on Social Justice for a Fair Globalization, as amended in 2022 (the "ILO Decent Work Agenda") and other relevant ILO conventions, and other international commitments, in particular:

(a) decent working conditions for all, with regard to, inter alia, wages and earnings, working hours, maternity leave and other conditions of work;

(b) health and safety at work, including the prevention of occupational injury or illness and compensation in cases of such injury or illness; and

(c) non-discrimination in respect of working conditions, including for migrant workers.

7. Each Party shall protect and promote social dialogue on labour matters among workers and employers, and their respective organisations, and with relevant government authorities.

Article 227. Multilateral Environmental Agreements

1. The Parties recognise the importance of the UN Environment Assembly of the UN Environment Programme and of multilateral environmental governance and agreements as a response of the international community to global or regional environmental challenges and stress the need to enhance the mutual supportiveness between trade and environment policies, rules and measures.

2. In light of paragraph 1, each Party commits to effectively implementing the multilateral environmental agreements, protocols and amendments to which it is a party. In relation to the United Kingdom, in respect of Gibraltar, this means multilateral environmental agreements which have been extended to Gibraltar or are otherwise reflected in its laws and practices.

3. The Parties reaffirm the right of each Party to adopt or maintain measures to further the objectives of multilateral environmental agreements to which it is party.

Article 228. Trade and Climate Change

1. The Parties recognise the importance of taking urgent action to combat climate change and its impacts, and the role of trade and investment in pursuing that objective, in line with the UNFCCC, with the purpose and goals of the Paris Agreement and with other multilateral environmental agreements and multilateral instruments in the area of climate change.

2. In light of paragraph 1, each Party:

(a) commits to effectively implementing the UNFCCC, and the Paris Agreement of which one principal aim is strengthening the global response to climate change and holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1,5 °C above pre-industrial levels;

(b) shall promote the mutual supportiveness of trade and climate policies and measures thereby contributing to the transition to a low greenhouse gas emission, resource-efficient economy and to climate-resilient development; and

(c) shall facilitate the removal of obstacles to trade and investment of particular relevance for climate change mitigation and adaptation, such as renewable energy, energy efficient products and services, for instance through addressing tariff and non-tariff barriers or through the adoption of policy frameworks conducive to the deployment of the best available solutions.

Article 229. Trade and Biological Diversity

1. The Parties recognise the importance of conserving and sustainably using biological diversity and the role of trade in pursuing these objectives, including by promoting sustainable trade or controlling or restricting trade in endangered species, in line with the relevant multilateral environmental agreements to which they are party and to the extent the United Kingdom has extended such agreements to Gibraltar, and the decisions adopted thereunder, notably the Convention on Biological Diversity and its protocols, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington D.C. on 3 March 1973 ("CITES").

2. In light of paragraph 1, each Party shall:

(a) implement effective measures to combat illegal wildlife trade, including with respect to third countries, as appropriate;

(b) promote the use of CITES as an instrument for conservation and sustainable management of biodiversity, including through the inclusion of animal and plant species in the appendices to CITES where the conservation status of that species is considered at risk because of international trade;

(c) encourage trade in products derived from a sustainable use of biological resources and contributing to the conservation of biodiversity; and

(d) continue to take measures to conserve biological diversity when it is subject to pressures linked to trade and investment, including measures to prevent the spread of invasive alien species and measures for the possible eradication of those already present.

Article 230. Trade and Forests

1. The Parties recognise the importance of conservation and sustainable forest management for providing environmental functions and economic and social opportunities for present and future generations, and the role of trade in pursuing that objective.

2. In light of paragraph 1 and in a manner consistent with its international obligations, each Party shall:

(a) continue to implement measures to combat illegal logging and related trade, including with respect to third countries, as appropriate, and to promote trade in legally harvested forest products;

(b) promote the conservation and sustainable management of forests and trade and consumption of timber and timber products harvested in accordance with the law of the country of harvest and from sustainably managed forests.

Article 231. Trade and Sustainable Management of Marine Biological Resources and Aquaculture

Each Party shall comply with international law, including adopting and maintaining their respective effective tools to combat Illegal Unreported and Unregulated (IUU) fishing, and shall adopt measures to exclude the products of IUU fishing from trade flows, and cooperate to that end.

Article 232. Trade and Investment Favouring Sustainable Development

1. The Parties confirm their commitment to enhancing the contribution of trade and investment to the goal of sustainable development in its economic, social and environmental dimensions.

2. Pursuant to paragraph 1, the Parties shall continue to promote:

(a) policies concerning trade and investment that support the four strategic objectives of the ILO Decent Work Agenda, consistent with the 2008 ILO Declaration on Social Justice for a Fair Globalization, including the minimum living wage, health and safety at work, and other aspects related to working conditions;

(b) trade and investment in environmental goods and services, such as renewable energy and energy efficient products and services, including through addressing related non-tariff barriers or through the adoption of policy frameworks conducive to the deployment of the best available solutions;

(c) trade in goods and services contributing to enhanced social conditions and environmentally sound practices, including those subject to voluntary sustainability assurance schemes such as fair and ethical trade schemes and eco-labels.

3. The Parties recognise the importance of addressing specific sustainable development issues by reviewing, monitoring and assessing the potential economic, social and environmental impacts of possible actions, taking account of the views of stakeholders.

Article 233. Trade and Responsible Supply Chain Management

1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct and corporate social responsibility practices and the role of trade in pursuing this objective.

2. In light of paragraph 1, each Party shall:

(a) encourage corporate social responsibility and responsible business conduct, including by providing supportive policy

frameworks that encourage the uptake of relevant practices by businesses; and

(b) support the adherence, implementation, follow-up and dissemination of relevant international instruments, such as the OECD Guidelines for Multinational Enterprises adopted by the OECD Council on 27 June 2000, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy adopted by the Governing Body of the ILO at its 204th session in Geneva in November 1977, the UN Global Compact, and the UN Guiding Principles on Business and Human Rights.

3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility and responsible business conduct and shall encourage joint work in this regard. In respect of the OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas and its supplements, the Parties shall also implement measures to promote the uptake of that Guidance.

Article 234. Dispute Settlement

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the application of this Chapter.

2. By way of derogation from [Dispute settlement], in the event of a dispute between the Parties regarding the application of this Chapter, the Parties shall have recourse exclusively to the procedures established under Articles 235 and 236.

Chapter 7. HORIZONTAL AND INSTITUTIONAL PROVISIONS

Article 235. Consultations

1. A Party may request consultations with the other Party regarding any matter arising under Article 199(3) and Chapters 4, 5, and 6 of this Title by delivering a written request to the other Party. The complaining Party shall specify in its written request the reasons and basis for the request, including identification of the measures at issue, specifying the provisions that it considers applicable. Consultations must commence promptly after a Party delivers a request for consultations and in any event not later than 30 days after the date of delivery of the request, unless the Parties agree to a longer period.

2. The Parties shall enter into consultations with the aim of reaching a mutually satisfactory resolution of the matter. During consultations, each Party shall provide the other Party with sufficient information in its possession to allow a full examination of the matters raised. Each Party shall endeavour to ensure the participation of personnel of their competent authorities who have expertise in the matter subject to the consultations.

3. In matters relating to Article 199(3) or to the multilateral agreements or instruments referred to in Chapters 4, 5 or 6, the Parties shall take into account available information from the ILO or relevant bodies or organisations established under multilateral environmental agreements. Where relevant, the Parties shall jointly seek advice from such organisations or their bodies, or any other expert or body they deem appropriate.

4. Any resolution reached by the Parties shall be made available to the public.

Article 236. Panel of Experts

1. For any matter that is not satisfactorily addressed through consultations under Article 235, a Party may, after 90 days from the receipt of a request for consultations under that Article, request that a panel of experts be convened to examine that matter, by delivering a written request to the other Party. The request shall identify the measure at issue, specify and explain how that measure does not conform with the provisions of the relevant Chapter or Chapters in a manner sufficient to present the complaint clearly.

2. The panel of experts shall be composed of three panellists.

3. The Cooperation Council shall, no later than 1 year after the entry into force of this Agreement, establish a list of at least 15 individuals who are willing and able to serve as panellists. Each Party shall name at least five individuals to the list to serve as panellists. The Parties shall also name at least five individuals who are not nationals of either Party and who are willing and able to serve as chairperson of a panel of experts. The Cooperation Council shall ensure that the list is kept up to date and that the number of experts is maintained at a minimum of 15 individuals.

4. The experts proposed as panellists must have specialised knowledge or expertise in labour or environmental law, other issues addressed in the relevant Chapter or Chapters, or in the resolution of disputes arising under international agreements. They must serve in their individual capacities and not take instructions from any organisation or government

with regard to matters related to the dispute. They must not be affiliated with or take instructions from either Party. They shall not be persons who are members, officials or other servants of the Union institutions, of the Government of a Member State, or of the Government of the United Kingdom or Gibraltar.

5. Unless the Parties agree otherwise within five days from the date of establishment of the panel of experts, the terms of reference shall be:

"to examine, in the light of the relevant provisions, the matter referred to in the request for the establishment of the panel of experts, and to deliver a report in accordance with this Article that makes findings on the conformity of the measure with the relevant provisions".

6. In respect of matters related to multilateral standards or agreements covered in this Title, the panel of experts should seek information from the ILO or relevant bodies established under those agreements, including any pertinent available interpretative guidance, findings or decisions adopted by the ILO and those bodies.

7. The panel of experts may request and receive written submissions or any other information from persons with relevant information or specialised knowledge.

8. The panel of experts shall make available such information to each Party, allowing them to submit their comments within 20 days of its receipt.

9. The panel of experts shall issue to the Parties an interim report and a final report setting out the findings of fact, its determinations on the matter including as to whether the respondent Party has conformed with its obligations under the relevant Chapter or Chapters and the rationale behind any findings and determinations that it makes. For greater certainty, the Parties share the understanding that if the Panel makes recommendations in its report, the respondent Party does not need to follow these recommendations in ensuring conformity with this Agreement.

10. The panel of experts shall deliver to the Parties the interim report within 100 days after the date of establishment of the panel of experts. When the panel of experts considers that this deadline cannot be met, the chairperson of the panel of experts shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel of experts plans to deliver its interim report. The panel of experts shall, under no circumstances, deliver its interim report later than 125 days after the date of establishment of the panel of experts.

11. Each Party may deliver to the panel of experts a reasoned request to review particular aspects of the interim report within 25 days of its delivery. A Party may comment on the other Party's request within 15 days of the delivery of the request.

12. After considering those comments, the panel of experts shall prepare the final report. If no request to review particular aspects of the interim report are delivered within the time period referred to in paragraph 11, the interim report shall become the final report of the panel of experts.

13. The panel of experts shall deliver its final report to the Parties within 175 days of the date of establishment of the panel of experts. When the panel of experts considers that this time limit cannot be met, its chairperson shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel of experts plans to deliver its final report. The panel of experts shall, under no circumstances, deliver its final report later than 195 days after the date of establishment of the panel of experts.

14. The final report shall include a discussion of any written request by the Parties on the interim report and clearly address the comments of the Parties.

15. The Parties shall make the final report available to the public within 15 days of its delivery by the panel of experts.

16. If the final report of the panel of experts determines that a Party has not conformed with its obligations under the relevant Chapter or Chapters, the Parties shall, within 90 days of the delivery of the final report, discuss appropriate measures to be implemented taking into account the report of the panel of experts.

17. The Cooperation Council shall monitor the follow-up to the report of the panel of experts.

18. When the Parties disagree on the existence of, or the consistency with, the relevant provisions of any measure taken to address the non-conformity, the complaining Party may deliver a request, which shall be in writing, to the original panel of experts to decide on the matter. The request shall identify any measure at issue and explain how that measure is not in conformity with the relevant provisions in a manner sufficient to present the complaint clearly. The panel of experts shall deliver its findings to the Parties within 45 days of the date of the delivery of the request.

19. Except as otherwise provided for in this Article, Article 305, Article 306 and Articles 318 to 323, shall apply mutatis mutandis.

Article 237. Panel of Experts for Non-regression Areas

1. Article 236 shall apply to disputes between the Parties concerning the interpretation and application of Chapters 4 and 5.

2. For the purposes of such disputes, in addition to the Articles listed in Articles 236, 316 and 317 shall apply mutatis mutandis.

3. The Parties recognise that, where the respondent Party chooses not to take any action to conform with the report of the panel of experts and with this Agreement, any remedies authorised under Article DS.17 (Temporary measures) continue to be available to the complaining Party.

Title II. ARRANGEMENTS ON CUSTOMS, INDIRECT TAXATION AND TRADE RELATED ISSUES

Chapter 1. GENERAL PRINCIPLES AND OBJECTIVES

Article 238. Principles and Objectives

The purpose of this Title is to set up the necessary arrangements to remove all physical barriers and related procedures between Gibraltar and the Union for goods moving by land, while protecting the integrity of the Union's Single Market and the Parties' financial interests.

Article 239. Definitions

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

(a) "competent authorities of the United Kingdom, in respect of Gibraltar" means His Majesty's Customs Gibraltar or other relevant authorities in Gibraltar;

(b) "competent authorities within the Union" means customs or other relevant authorities of the Member States or of the Union;

(c) "customs clearance formalities" means all procedures, measures and controls to be carried out for the release for free circulation of the goods in accordance with Union law. It covers customs formalities, conformity with product rules, requirements and standards, prohibitions and restrictions, sanitary and phytosanitary measures as provided for in Union law, and any other formalities necessary to release the goods for free circulation in the Union;

(d) "designated customs post" means those customs posts listed in Appendix 1 of Annex 21.

Chapter 2. CUSTOMS UNION

Article 240. Establishment of a Customs Union

A customs union between the Union and the United Kingdom, in respect of Gibraltar, is hereby established in accordance with the provisions set out under this Chapter.

Article 241. Customs Territories

The customs territory of the customs union between the Union and the United Kingdom, in respect of Gibraltar, shall comprise:

(a) the customs territory of the Union as defined in Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council (1) (the "Union Customs Code"); and

(1) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ EU L 269, 10.10.2013, p. 1, ELI: http://data.europa.eu/eli/reg/2013/952/oj).

(b) the customs territory of Gibraltar, which constitutes a customs territory separate from the customs territory of the United Kingdom.

Article 242. Free Movement of Goods Within the Customs Union

1. The provisions of this Chapter shall apply to:

(a) goods produced in the customs territory of the Union or in the customs territory of Gibraltar, including those obtained wholly or in part from goods which come from countries or territories outside the customs union and are in free circulation in the Union or in Gibraltar; and

(b) goods which come from countries or territories outside the customs union and are in free circulation in the Union or in Gibraltar.

2. Goods coming from countries or territories outside the customs union shall be considered to be in free circulation in the Union or in Gibraltar if the customs clearance formalities have been fulfilled, and any customs duties or charges having equivalent effect which are payable have been levied, and if there has been no total or partial drawback of such duties or charges in respect of the said goods.

3. The provisions of this Chapter shall also apply to goods obtained or produced in the Union or in Gibraltar in the manufacture of which products from countries or territories outside the customs union that are not in free circulation either in the Union or in Gibraltar were used, provided the customs clearance formalities have been completed and any customs duties or charges having equivalent effect payable on such products from countries or territories outside the customs union have been levied.

4. The modalities of the proof that the goods satisfy the conditions of this Article are contained in Annex 19.

Article 243. Prohibition of Customs Duties

No customs duties on imports or exports or charges having equivalent effect shall be applied between the Union and Gibraltar. This prohibition shall also apply to customs duties of a fiscal nature.

Article 244. Prohibition of Quantitative Restrictions

Quantitative restrictions on imports or exports and all measures having equivalent effect shall be prohibited between the Union and Gibraltar.

Article 245. Internal Taxation

1. The Union and the United Kingdom, in respect of Gibraltar, shall not impose directly or indirectly on goods of each other any taxation discriminating directly or indirectly in favour of similar domestic goods.

2. Goods moved between the territories referred to in Article 241 shall not be eligible for a refund of domestic charges which is higher than the charges which have been levied directly or indirectly.

Article 246. Removal of Physical Barriers

1. All physical barriers present between Gibraltar and the Union for goods moving between them by land shall be removed, without prejudice to Article 252 or to formalities required and checks and controls that may be carried out by the Parties to ensure the correct application of this Title.

2. Until the entry into force of the decision referred to in Article 247(1), customs clearance formalities, export formalities, and Union levy and duty collection procedures provided for in this Title that refer to the United Kingdom, in respect of Gibraltar, shall be carried out, as provided for in Article 247(3).

Article 247. Imports Into and Exports from Gibraltar

1. The provisions of Union law listed in Annex 20 shall apply to the United Kingdom, in respect of Gibraltar, and in Gibraltar, provided that the Cooperation Council adopts a decision:

(a) specifying the date as from which the provisions of Union law listed in Annex 20 apply to the United Kingdom, in respect

of Gibraltar, and in Gibraltar; and

(b) declaring that border control posts and customs offices have been established in the port and airport and that they operate and are controlled in accordance with modalities and procedures defined in that decision and that competent authorities within the Union have been designated.

2. When adopting the decision referred to in paragraph 1, the Cooperation Council may amend the list of provisions of Union law in Annex 20.

3. Until the entry into force of the decision referred to in paragraph 1, and without prejudice to paragraph 4, goods other than those carried by travellers in their personal luggage in accordance with Annex 23 shall be brought into Gibraltar and be exported from Gibraltar only by land and in accordance with the rules laid down in Annex 19, 21, 22 and 24.

4. By derogation from paragraph 3:

(a) Union goods may also be brought into Gibraltar by sea in accordance with the rules laid down in Article 4 of Annex 19, Article 7 of Annex 21, and in Annexes 22 and 24;

(b) goods may also be moved by sea from Gibraltar to third countries in accordance with the rules laid down in Article 5 of Annex 19, Articles 7 and 8 of Annex 21 and in Annexes 22 and 24.

5. Until the entry into force of the decision referred to in paragraph 1, Gibraltar shall be regarded as a third territory for Union customs purposes.

6. The decision referred to in paragraph 1 shall lay down arrangements for joint actions and controls, as well as customs cooperation and administrative cooperation between the competent authorities of the United Kingdom, in respect of Gibraltar, and the competent authorities within the Union as well as any other rules or procedures necessary to ensure the correct application of the provisions of Union law listed in Annex 20 to the United Kingdom, in respect of Gibraltar, and in Gibraltar, the correct application of this Title, as well as of the correct application of that decision.

7. When adopting the decision referred to in paragraph 1, the Cooperation Council shall also consider the manner in which any border formalities and any relevant border controls and checks at the border posts or customs offices in Gibraltar, including the performance of risk analysis and post release controls, shall be carried out in order to protect the proper functioning of the Union's Single Market.

Article 248. Indirect Taxation

1. Until the entry into force of the decision referred to in Article 247(1), paragraphs 2 to 4 of this Article shall apply.

2. Goods produced in or imported into Gibraltar shall be liable to a transaction tax.

3. Goods liable to excise duties under Union law imported into or produced in Gibraltar shall also be liable to an excise duty in Gibraltar.

4. The transaction tax and the excise duty shall be levied in accordance with the provisions laid down in Annex 24.

5. An independent consultative body established by the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain established on [...] shall:

(a) advise at any time, at the request of the Parties, based on its ongoing assessment of the relevant market conditions in Gibraltar and the contiguous frontier zone whether the conditions under points (a) to (c) of Article 249(1) are met; and

(b) assess and advise annually the impact of the transaction tax rates, including reduced and super reduced rates, and excise duty rates applied in Gibraltar on the level of competition and any significant actual distortions in trade between Gibraltar and the contiguous frontier zone.

6. Should any distortion within the meaning of paragraph 4 be established by the independent consultative body, the United Kingdom, in respect of Gibraltar, shall adjust the indirect taxation rates to be applied in Gibraltar to a level deemed appropriate according to the recommendations of the independent consultative body to avoid such distortions and within the limits set out in Articles 2 and 6 of Annex 24.

Article 249. Safeguard Procedure

1. The Union may use the safeguard procedure provided for in this Article should the United Kingdom, in respect of

Gibraltar, not comply with its obligation under Article 248(5) in relation to Article 248(4)(a) and if considered appropriate by the Union, if the following conditions are met:

(a) significant distortions in trade between Gibraltar and the Union are occurring in respect of the good or category of goods concerned;

(b) the distortions referred to in point (a) are linked to differences in the levels of transaction tax and excise duties charged on that good by the United Kingdom, in respect of Gibraltar, compared to the rates of VAT and excise duties charged by the Kingdom of Spain on the same good or category of goods;

(c) the distortions referred to in point (a) have existed for a period of at least 30 days; and

(d) the Union has objective, compelling and verifiable information to support a finding that the conditions set out in points (a) to (c) are met.

2. The Union may use the safeguard procedure of this Article should the United Kingdom in respect of Gibraltar not comply with its obligation under Article 248(5) in relation to Article 248(4)(b) and if considered appropriate by the Union.

3. The Union shall notify the United Kingdom, in respect of Gibraltar, in full of the information referred to in point (d) of paragraph 1 and shall enter into immediate consultations with the United Kingdom, in respect of Gibraltar, with a view to reaching a mutually acceptable solution. The notification must provide details of the relevant recommendation of the independent consultative body, the specific good or category of goods in respect of which the finding has been made, including, where relevant, the brand or make and the model.

4. If, after 10 working days of the consultations commencing, a mutually acceptable solution is not reached, the Union may, for a period not longer than 30 days, levy the VAT and excise applicable to the specific good or category of goods identified in the notification when opening the transit procedure for any such goods in accordance with Annexes 19 and 21 when they are destined for Gibraltar. The rate of VAT and excise applied shall be that applicable in the Member State of the relevant designated customs post.

5. Subject to paragraph 6, the 30-day period referred to in paragraph 4 may be extended by a further period of 30 days if the conditions set out in paragraphs 1 and 2 persist.

6. The Union shall notify the United Kingdom, in respect of Gibraltar, that it intends to extend the 30-day period referred to in paragraph 4, pursuant to paragraph 5, not less than 4 working days before such extension takes effect. The information referred to in point (d) of paragraph 1 supporting a finding that the conditions set out in points (a) to (c) of paragraph 1 continue to be met or that the situation referred to in paragraph 1 persists, shall be provided in full to the United Kingdom, in respect of Gibraltar, with that notification.

7. The processes set out in paragraphs 5 and 6 may be repeated until such time as the conditions set out in paragraph 1 are no longer met, an alternative mutually agreed solution has been reached, or until the conclusion of the arbitration process referred to in paragraph 8.

8. If the United Kingdom, in respect of Gibraltar, initiates the arbitration procedure referred to in Article 305 to challenge any act by the Union under this Article, the arbitration tribunal shall treat the issue as a case of urgency for the purposes of Article 310.

9. During any period that the Union levies VAT and excise on goods pursuant to this Article, the provisions of the Agreement requiring the United Kingdom, in respect of Gibraltar, to levy transaction tax and excise duties on those goods shall not apply.

10. Article 6(1) shall not apply to communications made under this Article.

11. Amounts of VAT and excise duties collected by the Member State concerned shall be kept by that Member State.

Article 250. Cooperation and Mutual Administrative Assistance

1. Until the entry into force of the decision referred to in Article 247(1), paragraphs 2 to 8 of this Article shall apply.

2. The Parties shall cooperate in the area of customs and indirect taxation, including by:

(a) communicating and exchanging information in a rapid and secure way to ensure the proper application of customs and tax legislation and to prevent and combat customs and tax fraud, smuggling, in particular of products subject to excise duties or any other indirect taxes, such as tobacco products, drug trafficking, trafficking in firearms and explosives

precursors, including cash movements and money laundering and terrorist financing in relation thereto and illegal waste trafficking. Such exchanges may take place in an automated and systematic way and may include import and export declaration data on trade between the Parties;

(b) coordinating customs and tax controls;

(c) cooperation relating to the movement of goods that are subject to customs and tax controls; and

(d) adopting other measures to facilitate and promote secure and licit trade, including with respect to authorised economic operators and collaborating on special forms of cooperation provided for by Union law or agreed between the Parties.

3. The competent authorities within the Union and the competent authorities of the United Kingdom, in respect of Gibraltar, shall provide each other with mutual administrative assistance in customs matters in accordance with Protocol on mutual administrative assistance in customs matters.

4. The competent authorities within the Union and the competent authorities of the United Kingdom, in respect of Gibraltar, shall cooperate with each other to ensure compliance with legislation relating to VAT, transaction tax and excise duties and in recovering claims relating to taxes and duties in accordance with 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. Any exchange of information between the competent authorities within the Union and the competent authorities of the United Kingdom, in respect of Gibraltar, in accordance with this Chapter shall be subject to the requirements of confidentiality and protection of information set out in Article PCUST.12 of the Protocol on mutual administrative assistance in customs matters, mutatis mutandis, as well as to any confidentiality requirements set out in the law of the Union and of the United Kingdom, in respect of Gibraltar.

6. The competent authorities within the Union and the competent authorities of the United Kingdom, in respect of Gibraltar, may cooperate and exchange information in the area of non-food product safety and compliance.

7. The Union and the United Kingdom, in respect of Gibraltar, shall notify their respective competent authorities to carry out the cooperation and mutual administrative assistance on customs and indirect taxes provided for in this Article.

8. Article 6(1) shall only apply to exchanges of periodic complied data and information under this Article.

Article 251. Access to IT Systems

1. For the purposes of the application of Articles 242, 245, 247 and 248, the competent authorities of the United Kingdom, in respect of Gibraltar, shall have access to the European transit and proof of Union status IT system or to the specific transit system of Annexes 19 and 21 through the IT system of the Kingdom of Spain.

2. The competent authorities within the Union shall have real time and continuous access to any relevant IT systems used by the competent authorities of the United Kingdom, in respect of Gibraltar, for the application of this Title.

3. Administrative arrangements between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall set out the practical modalities for the application of paragraphs 1 and 2.

Article 252. Exceptions and Safeguards

1. The provisions of Article 244 shall not preclude the application of prohibitions or restrictions on the import or export of goods, or to goods in transit, justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Union and the United Kingdom, in respect of Gibraltar.

2. Without prejudice to Article 334, the Union or the United Kingdom, in respect of Gibraltar, may suspend the application of this Agreement or take the measures foreseen in paragraph 3 in case of:

(a) insufficient or defective application of the provisions of this Title, or of paragraph 1 of Article 19 insofar as the latter relates to acts of Union law made applicable to the United Kingdom, in respect of Gibraltar, and in Gibraltar by the decision referred to in Article 247(1);

(b) lack of cooperation by the competent authorities within the Union or by the competent authorities of the United Kingdom, in respect of Gibraltar, to address irregularities, fraud or diversion of trade, including as regards the full access of the competent authorities within the Union in accordance with Article 251;

(c) objective, compelling and verifiable information that systematic and large-scale breaches or circumventions of customs legislation have been committed; or

(d) errors, maladministration or abuses committed by the Union or by the United Kingdom, in respect of Gibraltar.

3. In the cases referred to in paragraph 2:

(a) the Union may increase the collection cost referred to in Article 3 of Annex 21 or suspend the reimbursement of the duties collected; and

(b) the Union may levy the VAT and where relevant excise duties applicable in the Member State of the designated customs post when opening the transit procedure for the goods destined for Gibraltar in accordance with Annexes 19 and 21.

4. If the Union or the United Kingdom, in respect of Gibraltar, intends to act pursuant to paragraph 2, it shall notify the Cooperation Council and be ready to enter into consultations upon request within the Cooperation Council with a view to reaching a mutually acceptable solution. If the Union and the United Kingdom, in respect of Gibraltar, fail to agree on a mutually acceptable solution within three months after the date of notification, the Union or the United Kingdom, in respect of Gibraltar, may decide to act pursuant to paragraph 2 unilaterally.

5. In the case a Party intends to take a measure pursuant to paragraph 4, the following modalities shall apply:

(a) that Party shall notify the other Party about its decision specifying the reason to take the measure and the period of application of the unilateral measure, which shall be no longer than three months;

(b) the period for the application of the unilateral measure may be renewed following the same procedure, should the conditions under paragraph 2 persist at the expiry of the period set out in the notice referred to in sub-paragraph (a);

(c) any unilateral measure under this Article shall be the subject of regular consultations in the Cooperation Council from the date of application of the measure, with a view to ending the measure concerned before the expiry of the period set out in the notice referred to in sub-paragraph (a) in the event that the Party applying the measure decides the measure is no longer necessary; and

(d) The Parties may at any time request the Cooperation Council to review any measure taken under this Article.

Article 253. Ceuta and Melilla

The import of goods from Ceuta and Melilla into Gibraltar shall be subject to the same treatment as that afforded by Union law to goods imported from Ceuta and Melilla into the Union.

Article 254. Specialised Committee on Economy and Trade

1. The Specialised Committee on Economy and Trade shall have the power to:

(a) adopt appropriate measures to implement and make effective the provisions of Article 250;

(b) lay down the provisions needed for the application of Article 251;

(c) adopt amendments to the Annexes, appendices and protocols to this Title; and

(d) lay down any other arrangements necessary for the proper implementation of this Title.

2. The Specialised Committee on Trade and Economy shall regularly discuss the implementation of this Title.

Chapter 3. GOODS PRODUCED OR PLACED ON THE MARKET IN GIBRALTAR

Article ARTICLE 255

Definitions

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

"food" means any substance or product, including drinks, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans. "Food" shall not include feed, live animals unless they are prepared for placing on the market for human consumption, plants prior to harvesting, medicinal products, cosmetics, tobacco and tobacco products, narcotic or psychotropic substances, residues, contaminants and medical devices;

"GHA" means the Gibraltar Health Authority;

"label" means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to, the packaging of a food or the box in which it is contained, and which cannot be easily removed or faded;

"prepacked" means prepared for presentation of any single item as such to the final consumer and to catering operators, consisting of the packaging into which the retail goods are put before being offered for sale, whether such packaging encloses the retail goods completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging. "Prepacked food" shall not include foods packed on the sales premises at the consumer's request or prepacked for direct sale; and

"retail" means the handling or processing of food and its storage at the point of sale or delivery to the final consumer, which includes distribution terminals, catering operations, factory canteens, institutional catering, restaurants and other similar food service operations, shops, supermarket distribution centres and wholesale outlets.

General requirements

The United Kingdom, in respect of Gibraltar, shall have in place and effectively apply legislation ensuring that goods may be produced or placed on the market in Gibraltar only if they comply with the relevant rules of Union law governing the production or placing on the market of those goods.

Without prejudice to paragraph 1, goods lawfully placed on the market in any Member State shall be presumed to be compliant with any current or future rules applicable to goods to be placed on the market in Gibraltar.

The rules referred to in paragraph 1 shall not apply to:

goods produced in Gibraltar exclusively for export outside Gibraltar or the Union without being first placed on the Gibraltar or Union markets;

food produced in Gibraltar or prepared, processed or repacked by retail establishments in Gibraltar and placed on the market in Gibraltar for local consumption1; and

food imported into Gibraltar, as regards their transport, storage and distribution after entry into Gibraltar.

Where food referred to in subparagraph (b), is prepacked, the individual packaging must bear a label which clearly states the words "Not for EU".

In order to ensure that food referred to in subparagraphs (b) and (c) cannot be subsequently moved to a Member State or placed on the market in the Union, the competent authorities of the United Kingdom, in respect of Gibraltar, shall carry out official controls and surveillance measures to ensure compliance with the requirements of this paragraph and shall ensure that such food is only intended for retail sale and local consumption and that economic operators comply with the labelling requirement provided for in this Article.

1 For greater certainty, spirit drinks produced or placed on the market in Gibraltar are excluded from this provision and must fully comply with the relevant Union rules.

Notwithstanding paragraph 1, the United Kingdom, in respect of Gibraltar, may allow medicinal products for human use as defined in subparagraph (2) of Article 1 of

Directive 2001/83/EC of the European Parliament and of the Council1 to be placed on the market in Gibraltar provided that all of the following conditions are fulfilled:

the competent authorities of the United Kingdom have authorised the placing on the market in the United Kingdom of the medicinal product in accordance with the law of the United Kingdom and under the terms of the authorisation granted by them;

the medicinal products concerned not bear the EU unique identifier; but bear an individual label that shall state the words "UK only" which shall be attached to the packaging of the medicinal product in a conspicuous place in such a way that it is easily visible, clearly legible, and indelible and shall not in any way be hidden, obscured, detracted from, or interrupted by any other written or pictorial matter or any other intervening material; and

the United Kingdom, in respect of Gibraltar, has taken effective monitoring and enforcement measures carried out by means of audits and inspections in order to ensure that medicinal products as referred to in this paragraph2 may not be moved from Gibraltar to the Union or be placed on the market in a Member State and that economic operators comply with the labelling requirement provided for in this Article.

1 Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ EC L 311, 28.11.2001, p. 67, ELI:)

2 With the exception of licensed prescription medicines accompanied by a prescription by a GHA approved professional in a quantity not exceeding 90-day long treatment.

Notwithstanding paragraph 1, the United Kingdom, in respect of Gibraltar, may allow the import into Gibraltar, as laid down in Article 247(4), of medical devices, accessories for medical devices and in vitro diagnostic medical devices as defined in Article 2(1) and (2) of Regulation (EU) 2017/745 of the European Parliament and of the Council1 and Article 2(2) and 2(4) of Regulation (EU) 2017/746 of the European Parliament and of the Council2 (hereafter referred to as "devices"), provided that the following conditions are fulfilled:

the devices may be lawfully placed on the market in the United Kingdom;

the devices are procured and imported by or for entities placed under the direct responsibility of the GHA3;

the sole end-users of the devices are entities under the direct responsibility of the GHA and professionals employed by the GHA;

1 Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ EU L 117, 5.5.2017, p. 1, ELI:).

2 Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ EU L 117, 5.5.2017, p. 176,

ELI:).

3 By the date of entry into force of this Agreement, and subsequently each time there is a change to the entities concerned, the United Kingdom, in respect of Gibraltar, shall notify the Committee on Economy and Trade of the entities falling within the scope of point (b) of paragraph 5.

where the product does not bear a "CE" marking, a clearly visible, legible and indelible marking or sticker shall be applied to each consignment of devices covered by paragraph 5 at the point of first handling in Gibraltar following unloading from the means of transport. This marking or sticker should be placed on the outermost packaging of the consignment or shipping box, stating the words "Gibraltar (GHA) only". This shall be attached to the outermost packaging of the product in a conspicuous place in such a way that it is easily visible, clearly legible, and indelible; it shall not in any way be hidden, obscured, detracted from, or interrupted by any other written or pictorial matter or any other intervening material.

For the purposes of this subparagraph, "outermost packaging" means the first level of packaging visible upon receipt of the consignment after unloading, excluding any inner packs, cartons or individual product units contained therein; and

the United Kingdom, in respect of Gibraltar, has taken effective monitoring and enforcement measures carried out by means of audits and inspections in order to ensure that devices as referred to in this paragraph1 may not be moved from Gibraltar to the Union or be placed on the market in a Member State and that economic operators comply with the labelling requirements provided for in this Article.

1 With the exception of devices and accessories for such devices accompanied by a prescription or certificate by a GHA approved professional in quantity not exceeding a 90-day long treatment.

Any device imported under paragraph 5, which does not bear a "CE" marking, may only leave the premises of entities under the direct responsibility of the GHA if this is necessary for reasons of patient health, in the opinion of

professionals employed by the GHA. For any such devices leaving premises of entities under the direct responsibility of the GHA, a clearly visible, legible and indelible marking or sticker stating the words "Gibraltar (GHA) only" shall be applied to the immediate outer packaging of the device, or to the device itself if it is not packaged when leaving the premises. This shall be attached to the packaging of the product in a conspicuous place in such a way that it is easily visible, clearly legible, and indelible; it shall not in any way be hidden, obscured, detracted from, or interrupted by any other written or pictorial matter or any other intervening material.

This requirement shall not apply to implantable devices or where it is not possible to apply such a marking or sticker without impairing its proper functioning, given the size or nature of the device.

Before issuing any new authorisation licence relating to the production or placing on the market of goods in Gibraltar, the United Kingdom, in respect of Gibraltar, shall inform the Union via the Specialised Committee on Economy and Trade.

Monitoring of compliance and cooperation on market surveillance

The United Kingdom, in respect of Gibraltar, shall:

establish and ensure the effective operation of market surveillance authorities which will carry out market surveillance activities to ensure compliance with Article 256(1) and 256(3);

ensure the separation of market surveillance functions from conformity assessment functions; and

ensure the impartiality of market surveillance authorities in the performance of control or supervision of economic operators.

When a Member State's market surveillance authority has found that goods produced or placed on the market in Gibraltar are not in compliance with the relevant rules of Union law governing the production or placing on the market of these goods in the Union and has informed the competent authorities of the United Kingdom, in respect of Gibraltar, thereof, and provided the reasons for its finding, the latter authorities shall without delay take all appropriate and necessary enforcement measures. Article 6(1) shall not apply to exchanges of information under this paragraph.

When the competent authorities of the United Kingdom, in respect of Gibraltar, have found that goods imported from a Member State and placed on the market in Gibraltar are not in compliance with the legislation referred to in Article 256(1) and where bringing such non-compliance to an end requires measures to be taken within the jurisdiction of a Member State, those authorities may send a reasoned request to the market surveillance authorities of that Member State to investigate whether those goods are in compliance with the rules that would apply if those goods were placed on the market in the Union and, if it is found that the goods are not in compliance, to take appropriate corrective measures.

Without prejudice to the relevant provisions on mutual administrative assistance in customs matters, representatives of the competent authorities within the Union shall verify in accordance with Article 265, as provided for below, whether goods produced or placed on the market in Gibraltar comply with relevant rules of Union law applicable to those goods in the Union.

For the purposes of the verification referred to in the first sub-paragraph, the representatives of the competent authorities within the Union may request the authorities of the United Kingdom, in respect of Gibraltar, to carry out certain actions and measures during joint visits. The competent authorities of the United Kingdom, in respect of Gibraltar, shall carry out those measures expeditiously.

The measures referred to in the second sub-paragraph may include the following:

the provision, by the end of January and July of each year, to the representatives of the competent authorities within the Union of the list of licensed economic operators and of goods produced or placed on the market provided by the competent authorities of the United Kingdom, in respect of Gibraltar, and verification of the accuracy of that list through the production of the relevant business licences;

the verification that the actual production of goods produced or placed on the market in Gibraltar is carried out by the producer in accordance with the relevant rules of Union law applicable to the production of these goods in the Union and in the Member State in the market of which the goods are intended to be placed; and

the verification that goods placed on the market in Gibraltar are compliant with the relevant rules of Union law applicable for the production and placing on the market of those goods in the Union.

In order to allow the competent authorities within the Union to decide, on the basis of risk-based market surveillance criteria, whether and to what extent joint verification visits are necessary, the competent authorities of the United Kingdom,

in respect of Gibraltar, shall provide the competent authorities within the Union with a list of the existing producers of goods in Gibraltar by the end of January and of July of each year following the entry into force of this Agreement. That list shall indicate:

any new licensed producer, including a description of the products produced by that producer;

the quantities produced during the previous period of six months per producer and per good; and

the volume of sales per producer and per good by place of destination (either Gibraltar or the place where the goods were exported).

The Specialised Committee on Economy and Trade may adopt a decision amending the content of such list.

The Parties recognise the importance of cooperation on market surveillance, safety and compliance of products for the facilitation of trade and for the protection of consumers and other users and of building mutual trust based on timely shared information and shall take appropriate action accordingly.

Chapter 4. TOBACCO

Article ARTICLE 258

Specific measures on monitoring and tracking of tobacco

The United Kingdom, in respect of Gibraltar, shall, in accordance with the provisions of the Protocol on the traceability, cooperation to fight smuggling of tobacco and additional measures related to tobacco products:

set up a tobacco traceability system that is equivalent to the Union system and the relevant Union law;

adopt additional measures as regards picture warnings, tobacco for oral use and cross border distance sales for tobacco products;

share traceability information on the movements of tobacco products in Gibraltar with the competent authorities within the Union, upon request;

establish monitoring mechanisms to exchange information with the competent authorities within the Union concerning raw, unmanufactured tobacco and manufactured tobacco products that are entered, imported or sold in Gibraltar or exited or exported from Gibraltar; and

cooperate, including by exchanging information with the competent authorities within the Union to fight tobacco smuggling, including to identify persons that may be found directly or indirectly responsible for said acts.

Article 6(1) Shall Not Apply to Exchanges of Information Under Points (d) and (e).

Chapter 5. PROVISIONS APPLICABLE TO CERTAIN CATEGORIES OF GOODS

Article ARTICLE 259

Definitions

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

"civilian component" means civilian persons who are in the employ of, or contracted by, the Government of the United Kingdom and who are not persons resident in Gibraltar or in the Union, with the exception of persons who have the right to reside in the United Kingdom or the Common Travel Area;

"non-resident United Kingdom Forces" means persons serving in the United Kingdom Forces, either as regulars or reserves, who are citizens of the United Kingdom, Commonwealth citizens, citizens of Ireland or have the right to reside in the United Kingdom or the Common Travel Area and who are not persons resident in Gibraltar; and

"visiting third country forces" means persons serving or who are in the employ of, or contracted by, the armed services of a NATO member or of selected partners who are not persons resident in the Union, or in Gibraltar, and who are due to arrive in Gibraltar on the invitation of the United Kingdom.

Rules applicable to certain categories of goods

With the exception of the documents referred to in paragraph 4 and goods transferred for commercial purposes, the competent authorities within the Union and the competent authorities of the United Kingdom, in respect of goods to be transferred to and from Gibraltar exclusively for the official use of the Ministry of Defence of the United Kingdom or of visiting third country forces, shall ensure that customs controls take place only at a designated customs post, during the fixed opening hours. The competent authorities within the Union shall ensure that customs controls take place as soon as reasonably practicable. Union law shall apply to the transfer of such goods from Gibraltar to the customs territory of the Union.

The transfer shall be carried out in accordance with the relevant provisions for goods of this Title with the exception of the collection of customs duties or indirect taxes and the application of Article 265.

The temporary admission and the re-exportation of service vehicles of non-resident United Kingdom Forces or the civilian component under their own power or private motor vehicles for their personal use shall be allowed free of customs duties and indirect taxation on presentation of a triptyque in the form included in the administrative arrangements referred to in paragraph 7.

Official documents under official seal shall be exempt from the application of this Title. Couriers, whatever their status, carrying these documents must be in possession of an individual movement order as referred to in the second indent of Article 38(2). This movement order shall show the number of dispatches carried and certify that they contain only official documents.

Special arrangements shall be made so that fuel, oil and lubricant for use in service vehicles, aircraft and vessels of non-resident United Kingdom Forces or the civilian component, may be delivered free of all duties and taxes.

Goods covered by this Article are not considered to be in free circulation in Gibraltar but in a form of temporary admission under the control of the relevant authorities. Goods covered by this Article may not be released for free circulation in the customs territory of the Union. Where these goods are placed on the market in Gibraltar, Title II shall apply.

Administrative arrangements between the Kingdom of Spain and the United Kingdom shall set out the practical modalities for the application of this Chapter.

Military technology and equipment

Transfers of items included in the Common Military List of the European Union1 as well as Category A, B and C firearms within the meaning of Regulation (EU) No 258/2012 of the European Parliament and of the Council2, and Regulation (EU) 2025/41 of the European Parliament and of the Council3, when destined for the armed forces, the police, or the public authorities of the United Kingdom in Gibraltar shall be subject to the provisions of this Title as well as to rules of Spanish law on export controls of defence and dual use material. The Kingdom of Spain shall impose an authorisation requirement on the transfers of these items.

The applications for the authorisations referred to in paragraph 1 shall include:

applications for licenses for physical exports, including those for the purpose of licensed production of military equipment in third countries;

1 COMMON MILITARY LIST OF THE EUROPEAN UNION adopted by the Council on 17 February 2020 (equipment covered by Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment) (updating and replacing the Common Military List of the European Union adopted by the Council on 18 February 2019 (1)) (CFSP) (2020/C 85/01).

2 Regulation (EU) No 258/2012 of the European Parliament and of the Council

of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime

(UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ EU L 94, 30.3.2012, p. 1, ELI:).

3 Regulation (EU) 2025/41 of the European Parliament and of the Council

of 19 December 2024 on import, export and transit measures for firearms, essential components and ammunition, implementing Article 10 of the United Nations Protocol against the illicit manufacturing of and trafficking in firearms, their

parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol) (OJ EU L, 2025/41, 22.1.2025,

ELI:).

applications for licenses for imports into the customs territory of the Union;

applications for brokering licenses;

applications for "transit" or "transhipment" licenses; and

applications for licenses for any intangible transfers of software and technology, by means such as electronic media, fax or telephone.

The Kingdom of Spain shall assess the license applications submitted for transfers of items on the Common Military List of the European Union on a case-by-case basis against the criteria established by Council Common Position 2008/944/CFSP1 as amended by Council Decision (CFSP) 2025/7792 defining common rules governing the control of exports of military technology and equipment.

1 Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment

(OJ EC L 335, 13.12.2008, p. 99, ELI:).

2 Council Decision (CFSP) 2025/779 of 14 April 2025 amending Common

Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment (OJ EU L, 2025/779, 15.4.2025,

ELI:).

Dual use goods and technologies

Transfers of items included in Annex I of Regulation (EU) 2021/821 of the European Parliament and of the Council1 shall be subject to the provisions of this Title as well as to relevant rules of Union and Spanish law on export controls of defence and dual use material. The Kingdom of Spain shall impose an authorisation requirement on the transfers of dual-use items listed in Annex I of this Regulation.

The Kingdom of Spain may impose an authorisation requirement on the transfer of certain items not listed in Annex I, in application of the relevant provisions of Regulation (EU) 2021/821.

The Kingdom of Spain may prohibit or impose an authorisation requirement on the transfer of dual-use items not listed in Annex I of Regulation (EU) 2021/821 for reasons of public security, including the prevention of acts of terrorism, or for human rights considerations.

The applications for the authorisations referred to in paragraph 1 shall include:

applications for licenses for physical exports, including those for the purpose of licensed production of military equipment in third countries;

applications for licenses for imports into the customs territory of the Union;

1 Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (OJ EU L 206, 11.6.2021, p. 1,

ELI:).

applications for brokering licenses;

applications for "transit" or "transhipment" licenses; and

applications for licenses for any intangible transfers of software and technology, by means such as electronic media, fax or telephone.

Authorisations

Transfer authorisations under this Chapter shall be granted by the competent authority of the Kingdom of Spain in

accordance with the provisions of Regulation (EU) 2021/821 of the European Parliament and of the Council. As concerns firearms, transfer authorisations under this Agreement shall be granted by the competent authority of the Kingdom of Spain in accordance with the provisions of Regulation (EU) No 258/2012 and Regulation (EU) 2025/41.

When deciding whether or not to grant an authorisation or to prohibit a transit under this Agreement, the Kingdom of Spain shall take into account all relevant considerations, including:

the Kingdom of Spain's international obligations and commitments, in particular the obligations and commitments it has accepted as member of the relevant international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties;

its obligations under sanctions imposed by legal acts of the Union or by a decision of the OSCE or by a binding resolution of the Security Council of the United Nations;

considerations of national foreign and security policy, including those covered by Common Position 2008/944/CFSP as amended by Council Decision (CFSP) 2025/779; and

considerations about intended end-use and the risk of diversion.

The competent authority of the Kingdom of Spain, acting in accordance with this Chapter, may refuse to grant a transfer authorisation and may annul, suspend, modify or revoke a transfer authorisation which it has already granted, in accordance with Regulation (EU) No 258/2012 and Regulation (EU) 2025/41.

Special procedure

The transfer of the items referred to in Articles 260, 261 and 262, with the exception of goods transferred for commercial purposes and sanitary and phytosanitary goods shall be regulated exclusively by the special procedure of this Article, provided that such items:

arrive at or depart from Gibraltar airport or port aboard State aircraft or State vessels or in State consignments as defined in the administrative arrangements referred to in Article 260(7); and

are destined in Gibraltar exclusively for the official use of the Ministry of Defence of the United Kingdom or of visiting third country forces.

Goods covered by this Article shall not be considered to be in free circulation in Gibraltar but in a form of temporary admission under the control of the relevant authorities. These goods may not be released for free circulation in the customs territory of the Union. In the event of these goods being placed on the market in Gibraltar, Title II shall apply. Union law shall apply to the transfer of these goods from Gibraltar to the customs territory of the Union.

Where the conditions under paragraph 1 are met, as soon as reasonably practicable and in any event before the transfer of the items, the United Kingdom shall provide the Liaison Officer of the Kingdom of Spain with a list of the items and a certificate signed by the United Kingdom Liaison Officer guaranteeing that such items:

will be securely transported and stored in designated facilities; and

will be subject to a strict accounting and tracking system.

Chapter 6. IMPLEMENTATION, APPLICATION, SUPERVISION AND ENFORCEMENT

Article ARTICLE 265

Implementation, application, supervision and enforcement

The competent authorities within the Union shall verify compliance with this Title and carry out any necessary tasks, having, inter alia, access to the relevant infrastructures, documentation and records and any other relevant information.

The competent authorities of the United Kingdom, in respect of Gibraltar, shall cooperate in that regard and shall be informed in advance of the reasons for any visit, so that it can be carried out jointly with the competent authorities within the Union.

The practical modalities for the implementation of this Article are laid down in Annex 22.

Union law which applies to the United Kingdom, in respect of Gibraltar, and in Gibraltar in accordance with Article 247(1)

Regarding the provisions of Union law which apply to the United Kingdom, in respect of Gibraltar, and in Gibraltar, by virtue of Article 247(1), the following shall apply, without prejudice to Article 19:

any reference to the territory defined in Article 4 of Regulation (EU) No 952/2013 in the applicable provisions of this Agreement, as well as in the provisions of Union law made applicable to the United Kingdom, in respect of Gibraltar, and in Gibraltar, by this Agreement, shall be read as including Gibraltar. In particular, with regard to the Union's indirect tax Directives the Union shall take the measures necessary to ensure that transactions or movements between Gibraltar and Member States or between Member States and Gibraltar are not treated as transactions or movements between third countries or territories and the Union;

unless the Union considers that full or partial access by the United Kingdom, in respect of Gibraltar, is strictly necessary to enable the United Kingdom, in respect of Gibraltar, to comply with its obligations under this Agreement, in respect of access to any network, information system or database established on the basis of Union law, references to

Member States and competent authorities of Member States in provisions of Union law made applicable by this Agreement shall not be read as including the United Kingdom, in respect of Gibraltar; and

authorities of the United Kingdom or of the United Kingdom, in respect of Gibraltar, shall not act as leading authority for risk assessments, examinations, approvals and authorisation procedures provided for in Union law made applicable by this Agreement.

Goods, cash and pets brought by persons

Until the entry into force of the decision referred to in Article 247(2), the entry into Gibraltar of goods carried by travellers in their personal luggage, as well as their pets, and the entry and exit of cash shall be subject to the provisions set out in Annexes 22 and 23.

References to certain Union acts

For the purpose of this Title, references to Union acts in Articles 241, 256, 261, 262, 263 and 266 as well as in paragraph 1(a) of Article 3 of Annex 19 and paragraph 5 of Article 1 of Annex 21 shall be understood to include those Union acts as amended or replaced in future as well as any Union act implementing or supplementing those Union acts.

Article ARTICLE 269

Goods placed on the market in Gibraltar

Title II shall not apply to goods the movement of which started before the entry into force of this Agreement and ended thereafter.

The provisions of this Agreement relating to indirect tax shall not apply to goods which are covered by a certificate of exemption from import duty issued by the United Kingdom, in respect of Gibraltar, under Regulation 8, Part 3 of the Gibraltar Integrated Tariff Regulations 2017 before the entry into force of this Agreement, to the extent set out in paragraph 4, provided that the United Kingdom, in respect of Gibraltar, has provided to the competent authorities within the Union copies of all such extant certificates together with relevant information on the respective quantity of goods imported over the last three years where applicable. The quantities of goods to be imported shall be commensurate to the relevant projects covered by the certificate.

Where an economic operator relies on paragraph 1 or 2 with respect to a specific good or goods, that operator shall bear the burden of demonstrating, on the basis of any relevant document, that the movement started before the entry into force of this Agreement or that the certificate was issued before the entry into force of this Agreement.

Paragraph 1 shall cease to apply 2 months after the entry into force of this Agreement. Paragraph 2 shall apply for a period of no longer than the duration of the relevant certificate or a period of 3 months after the entry into force of this Agreement, whichever is shorter.

Any good that was lawfully placed on the market in Gibraltar before the date of entry into force of this Agreement shall, for a period of 3 months after the entry into force of this Agreement, not be subject to the requirements of Article 256.

Where an economic operator relies on paragraph 5 with respect to a specific good, that operator shall bear the burden of demonstrating, on the basis of any relevant document, that the good was placed on the market in Gibraltar before the entry into force of this Agreement, together with providing details of the quantities of goods concerned.

Ending of temporary storage or special customs procedures

This Title shall not apply to goods that were in temporary storage in Gibraltar or any special customs procedure commenced under the legislation of the United Kingdom, in respect of Gibraltar, prior to the date of entry into force of this Agreement, provided that, as applicable:

the goods are discharged from the special procedure within a period of two months after the entry into force of this Agreement; or

the temporary storage ends prior to the legal time limit for temporary storage set out in that legislation.

This Title shall apply to the release for free circulation, discharge of the special procedure and any re-export from Gibraltar of goods referred to in paragraph 1.

Title III. TRANSPORT

Chapter 1. AVIATION

Article ARTICLE 271

Definitions

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

"air carrier" means an air transport undertaking holding a valid operating license or equivalent;

"air transport" means the carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, held out to the public for remuneration or hire, including both scheduled and non-scheduled air services;

"competent authority" means a government agency or entity responsible for the relevant regulatory and administrative functions under this Agreement; and

"Gibraltar airport" means the airport located in the isthmus of Gibraltar1 in respect of the services which are the subject of the Joint Venture referred to in Article AIR.4.

Distribution of traffic rights

For the conduct of air transport, the air carriers of each Party shall have on a non-discriminatory basis:

the right to fly across the territory of Gibraltar without landing; and

the right to make stops for non-traffic purposes at Gibraltar airport.

1 The present Agreement, any supplementing agreements mentioned in Article COMPROV.2, any administrative arrangements or arrangements related to this Agreement, and any measures or instruments or conduct taken in application or as a result thereof or pursuant thereto, shall be without prejudice to, and shall not otherwise affect the respective legal positions of the Kingdom of Spain or of the United Kingdom of Great Britain and Northern Ireland with regard to sovereignty and jurisdiction over the territory on which the airport is located and shall not constitute the basis for any assertion or denial of sovereignty including in legal proceedings or otherwise.

Air transport services between Gibraltar airport and points in the Union territory may be provided only by air carriers of the Union or by air carriers authorised by the Union. These services shall be provided in accordance with Union law.

Air transport services between Gibraltar airport and points in the United Kingdom may be provided only by air carriers of the United Kingdom or by air carriers authorised by the United Kingdom. These services shall be provided in accordance with the law of the United Kingdom.

The competent authorities of the Parties agree to consult each other on the possible extension to Gibraltar of relevant existing or future agreements or other international legal instruments as necessary as well as on their practical implementation.

Rules applicable to Gibraltar airport

The air traffic management and air navigation services provided to civil air traffic at Gibraltar airport shall offer a level of safety and interoperability with civil operations and systems that is equivalent to the services provided in civil airports where

International Civil Aviation Organisation (ICAO) provisions apply.

Safety and security provided to civil air traffic at Gibraltar airport shall be provided, at a minimum, at the level of equivalent services provided in civil airports where ICAO provisions apply.

In the area of airport charges, ground handling, slots, disabled persons and persons with reduced mobility, the provisions contained in the acts listed in the Annex 25 shall apply to Gibraltar airport.

Under the conditions laid down in paragraphs 4 and 5, the provisions contained in any subsequent act:

amending or replacing an act listed in the Annex 25;

supplementing or implementing an act listed in the Annex 25; or

on the subject matter of an act listed in the Annex 25. shall also apply to Gibraltar airport.

Where the Union adopts a subsequent act referred to in paragraph 3, it shall immediately notify the United Kingdom, in respect of Gibraltar, of the adoption of that act. Within thirty days of this notification, the United Kingdom, in respect of Gibraltar, shall notify the Union of its decision whether to accept the content of, and to implement into its domestic law, the subsequent Union act. The acceptance by the United Kingdom, in respect of Gibraltar, of the content of the subsequent Union act shall create rights and obligations between the United Kingdom, in respect of Gibraltar, and the Union.

Within thirty days of the Union notification referred to in paragraph 4, paragraph 3 shall apply in relation to the subsequent Union act.

The competent authorities of the Union and the United Kingdom, in respect of Gibraltar, shall, under the auspices of the Specialised Committee on Aviation established pursuant to Article AIR.5:

exchange regular information on safety and security matters; and

conduct joint inspection visits to Gibraltar airport for the purposes of monitoring compliance with the provisions of the Annex and security at Gibraltar airport.

The visits shall be proportionate and take place at the request of either Party that the other Party cannot refuse. Such inspection visits and exchange of information shall happen regarding and during the operation of flights between Gibraltar airport and points in the Union as well as the preparation for such operation. The practical modalities for the implementation of this paragraph will be agreed by the Specialised Committee on Aviation.

The Union and the United Kingdom, in respect of Gibraltar, shall report back on the implementation of this paragraph to the Specialised Committee on Aviation.

Air carriers that are the subject of an operating ban in the Union under Regulation (EC) No. 2111/2005 shall not be permitted to operate to and from Gibraltar airport.

The reference to Regulation (EC) No 2111/2005 shall be understood to include the regulation as amended or replaced in future as well as any Union act implementing or supplementing this regulation.

Air carriers that are subject to the restrictive measures of either of the Parties shall not be permitted to operate to and from Gibraltar airport.

Joint Venture

A joint venture company shall be constituted under the shared responsibility of the Kingdom of Spain and of the United Kingdom, in respect of Gibraltar. The joint venture company shall not be constituted in either State sharing responsibility for the joint venture company and shall be constituted in an EU Member State. The joint venture shall select, through regular public tender, and supervise the commercial company in charge of the day-to-day management of Gibraltar airport.

The public tender may foresee the contract and labour law applicable to the commercial company and its operations.

Private persons or companies who litigate against the joint venture or the commercial company may do so in line with relevant domestic, Union or international instruments, as well as any modalities set out in those instruments, including through the courts of the United Kingdom, in respect of Gibraltar, or of a Member State, as appropriate.

Specialised Committee on Aviation

The Specialised Committee on Aviation shall address matters under this Chapter and shall have the power to:

make recommendations to the Cooperation Council to adopt a decision amending Annex 25;

monitor and review the implementation and ensure the proper functioning of this Chapter;

address discrepancies following joint inspection visits pursuant to Article AIR.3(6);

discuss technical issues arising from the implementation of this Chapter;

make recommendations to the Parties regarding the implementation and application of this Chapter;

consider any matter of interest relating to an area covered by this Chapter; and

monitor, hold dialogues and exchanges in areas of shared interest, with the view of identifying opportunities to cooperate and share best practices and expertise.

Chapter 2. ROAD TRANSPORT

Article ARTICLE 276

Transport of goods and movement of ambulances between the territories of the Parties

The Parties shall allow the transport of goods by road between their territories. However, within the territory of the Union, those transport operations shall be limited to the contiguous frontier zone.

The Union shall allow within its territory the provision of the following ambulance services necessary to protect health, by operators established in Gibraltar and acting under the direction of the Gibraltar Health Authority, subject to the requirement that this provision is applied in a reasonable manner that does not lead to arbitrary or unjustifiable discrimination or to a disguised restriction on trade in services:

emergency ambulance services;

ambulance services required for the specialist handling of serious and acute medical conditions between Gibraltar and those establishments listed in Annex 26, which are contiguous to Gibraltar for public health purposes.

The United Kingdom, in respect of Gibraltar, shall allow within the territory of Gibraltar the provision of the following ambulance services necessary to protect health, by Union operators established in the contiguous frontier zone and acting under the direction of authorities duly authorised under relevant regulations, subject to the requirement that this provision is applied in a reasonable manner that does not lead to arbitrary or unjustifiable discrimination or to a disguised restriction on trade in services:

emergency ambulance services; and

ambulance services required for the specialist handling of serious and acute medical conditions between Gibraltar and those establishments listed in Annex 26, which are contiguous to Gibraltar for public health purposes.

Transport of goods to and from Gibraltar through the territory of the Union

The Union shall allow the transport, with transit through its territory, of goods by road with a commercial purpose between the territory of the United Kingdom and Gibraltar, and unladen journeys that are made in conjunction with that transport.

Requirements for operators

Road haulage operators of a Party undertaking a journey referred to in Articles 276 or 277 shall hold a valid licence issued in accordance with paragraph 2.

Licences shall only be issued, in accordance with the law of the Parties, to road haulage operators who comply with the requirements set out in Part A of Annex 27 governing the admission to, and the pursuit of, the occupation of road haulage operator.

A certified true copy of the licence shall be kept on board the vehicle and shall be presented at the request of any inspecting officer authorised by a Party. The licence and the certified true copy shall correspond to one of the models set out in Appendix X-A-1-3 of Part A to Annex 27, which also lays down the conditions governing the licence's use. The licence shall contain at least two of the security features listed in Appendix X-A-1-4 to Part A of Annex 27.

Exemption from licencing requirement in the contiguous frontier zone

The following types of transport of goods and unladen journeys made in conjunction with such transport may be conducted in the contiguous frontier zone without a valid licence as referred to in Article TRANSP.3:

transport of mail as a universal service;

transport of vehicles which have suffered damage or breakdown;

transport of goods in motor vehicles the permissible laden mass of which, including that of trailers, does not exceed 2,5 tonnes;

transport of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disasters and humanitarian assistance;

transport of goods in vehicles provided that the following conditions are fulfilled:

the goods carried are the property of the road haulage operator or have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the operator;

the purpose of the journey is to carry the goods to or from the road haulage operator's premises or to move them, either inside or outside the operator for its own requirements;

the vehicles used for such transport are driven by personnel employed by, or put at the disposal of, the road haulage operator under a contractual obligation;

the vehicles carrying the goods are owned by the road haulage operator, have been bought by it on deferred terms or have been hired; and

such transport is no more than ancillary to the overall activities of the road haulage operator;

transport of goods by means of motor vehicles with a maximum authorised speed not exceeding 40 km/h.

Requirements for drivers

Drivers of the vehicles of road haulage operators of a Party undertaking a journey referred to in Articles 276 or 277 shall:

hold a Certificate of Professional Competence issued in accordance with Section 1 of Part B of Annex 27; and

comply with the rules on driving and working time, rest periods, breaks and the use of tachographs in accordance with Sections 2 to 4 of Part B of Annex 27.

Requirements for vehicles

A Party shall not reject or prohibit the use in its territory of a vehicle undertaking a journey referred to in Articles TRANSP. 276 or 277 if the vehicle complies with the requirements set out in Section 1 of Part C of Annex 27.

Vehicles of road haulage operators of a Party undertaking a journey referred to in Articles 276 or 277 shall be equipped with a tachograph constructed, installed, used, tested and controlled in accordance with Section 2 of Part C of Annex 27.

Road traffic rules

Drivers of the vehicles of road haulage operators of a Party undertaking a journey referred to in Articles 276 or 277 shall, when in the territory of the other Party, comply with the national laws and regulations in force in that territory concerning road traffic.

Development of laws and Specialised Committee on Economy and Trade

When a Party proposes a new regulatory measure in an area covered by Annex 27, it shall:

notify the other Party of the proposed regulatory measure as soon as possible; and

keep the other Party informed of the progress of the regulatory measure.

At the request of a Party, an exchange of views shall take place within the Specialised Committee on Economy and Trade, no later than two months after the submission of the request, as to whether the proposed new regulatory measure would apply to journeys referred to in Articles 276 or 277.

When a Party adopts a new regulatory measure referred to in paragraph 1, it shall notify the other Party and supply the text

of the new regulatory measure within one week of its publication.

The Specialised Committee on Economy and Trade shall meet to discuss any new regulatory measure adopted, on request by a Party, within two months of the submission of the request, whether or not a notification has taken place in accordance with paragraph 1 or 3, or a discussion has taken place in accordance with paragraph 2.

The Specialised Committee on Trade and Economy shall have the power to:

amend Annex 26;

confirm that the amendments made by the new regulatory measure conform to Annex 27;

decide on any other measure aimed at safeguarding the proper functioning of this Chapter; and

adopt any modifications to Annex 27 as may be necessary to reflect changes made to Annex 31 to the Trade and Cooperation Agreement.

Remedial measures

If a Party considers that the other Party has adopted a new regulatory measure that does not comply with the requirements of Annex 27, in particular in cases where the Specialised Committee on Economy and Trade has not reached a decision under Article 283, and the other Party nevertheless applies the provisions of the new regulatory measure to the Party's road haulage operators, drivers or vehicles, the Party may, after notifying the other Party, adopt appropriate remedial measures, including the suspension of obligations under this Agreement or any supplementing agreement, provided that such measures:

do not exceed the level equivalent to the nullification or impairment caused by the new regulatory measure adopted by the other Party that does not comply with the requirements of Annex 27; and

take effect at the earliest 7 days after the Party which intends to take such measures has given the other Party notice under this paragraph.

The appropriate remedial measures shall cease to apply:

when the Party having taken such measures is satisfied that the other Party is complying with its obligations under this Chapter; or

in compliance with a ruling of the arbitration tribunal.

A Party shall not invoke the WTO Agreement or any other international agreement to preclude the other Party from suspending obligations under this Article.

Taxation

Vehicles used by road haulage operators of a Party for the carriage of goods in accordance with Articles 276 or 277 shall be exempt from the taxes and charges levied on the possession or circulation of vehicles in the territory of the other Party.

The exemption referred to in paragraph 1 shall not apply to:

a tax or charge on fuel consumption;

a charge for using a road or network of roads; or

a charge for using particular bridges, tunnels or ferries.

The fuel contained in the standard tanks of the vehicles and of special containers, admitted temporarily, which is used directly for the purpose of propulsion and, where appropriate, for the operation, during transport, of refrigeration systems and other systems, as well as lubricants present in the motor vehicles and required for their normal operation during the journey, shall be free of customs duties and any other taxes and levies, such as VAT and excise duties, and shall not be subject to any import restrictions.

The spare parts imported for repairing a vehicle on the territory of one Party that has been registered or put into circulation in the other Party, shall be admitted under cover of a temporary duty-free admission and without prohibition or restriction of importation. The replaced parts are subject to customs duties and other taxes (VAT) and shall be re-exported or destroyed under the control of the customs authorities of the other Party.

Chapter 3. MARITIME TRANSPORT

Article ARTICLE 286

Maritime transport

Each Party shall:

accord to ships supplying international maritime transport services1 and flying the flag of any Member State or of the United Kingdom (Gibraltar), or operated by service suppliers of the other Party, treatment no less favourable than that accorded to its own ships with regard to:

(i) access to ports; (ii) the use of port infrastructure; (iii) the use of maritime auxiliary services2; and (iv) customs facilities and the assignment of berths and facilities for loading and unloading, including related fees and charges;

1 "International maritime transport services" means the transport of passengers or cargo by seagoing vessels between a port of one Party and a port of the other Party or of a third country, or between ports of different Member States, including the direct contracting with providers of other transport services, with a view to covering door-to-door or multimodal transport operations under a single transport document.

2 "Maritime auxiliary services" means maritime cargo handling services, customs clearance services, container station and depot services, maritime agency services, maritime freight forwarding services and storage and warehousing services.

make available, in the port and the port internal waters, to international maritime transport service suppliers of the other Party on terms and conditions which are both reasonable and no less favourable than those applicable to its own suppliers or vessels (including fees and charges, specifications and quality of the service to be provided), the following port services: pilotage, towing and tug assistance, provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captain's services, navigation aids, emergency repair facilities, anchorage, berth, berthing and unberthing services and shore-based operational services essential to ship operations, including communications, water and electrical supplies.

Title IV. EXCEPTIONS

Article ARTICLE 287

General exceptions

Nothing in Titles I and II of Part Three shall be construed as preventing a Party from adopting or maintaining measures compatible with Article XX of GATT 1994. To that end, Article XX of GATT 1994, including its Notes and Supplementary Provisions, is incorporated into and made part of this Agreement, mutatis mutandis.

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in Title III of Part Three shall be construed to prevent the adoption or enforcement by either Party of measures:

necessary to protect public security or public morals, or to maintain public order1;

necessary to protect human, animal or plant life or health;

necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; and

safety.

1 The public security and public order exceptions may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

For greater certainty, the Parties understand that, to the extent that such measures are otherwise inconsistent with the provisions of the titles referred to in paragraphs 1 and 2 of this Article:

the measures referred to in point (b) of Article XX of GATT 1994 and in point (b) of paragraph 2 of this Article include environmental measures, which are necessary to protect human, animal or plant life or health;

point (g) of Article XX of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources; and

measures taken to implement multilateral environmental agreements can fall under points (b) or (g) of Article XX GATT 1994 or under point (b) of paragraph 2 of this Article.

Before a Party takes any measures provided for in points (i) and (j) of Article XX of GATT 1994, that Party shall provide the other Party with all relevant information, with a view to

seeking a solution acceptable to the Parties. If no agreement is reached within 30 days of providing the information, the Party may apply the relevant measures. Where exceptional and critical circumstances requiring immediate action make prior information or examination impossible, the Party intending to take the measures may apply forthwith precautionary measures necessary to deal with the situation. That Party shall inform the other Party immediately thereof.

Security exceptions Nothing in Part Three shall be construed:

to require a Party to furnish or allow access to any information the disclosure of which it considers contrary to its essential security interests; or

to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:

connected to the production of or traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods and materials, services and technology, and to economic activities, carried out directly or indirectly for the purpose of supplying a military establishment;

relating to fissionable and fusionable materials or the materials from which they are derived; or

taken in time of war or other emergency in international relations; or

to prevent a Party from taking any action in pursuance of its obligations under the Charter of the United Nations for the maintenance of international peace and security.

Taxation

Nothing in Titles I and II of Part Three shall affect the rights and obligations of either the Union or its Member States and the United Kingdom, in respect of Gibraltar, under any tax convention. In the event of any inconsistency between this Agreement and any such tax convention, the tax convention shall prevail to the extent of the inconsistency. With regard to a tax convention between the Union or its Member States and the United Kingdom, in respect of Gibraltar, the relevant competent authorities under this Agreement and that tax convention shall jointly determine whether an inconsistency exists between this Agreement and the tax convention.1

Articles 276 and 277 Shall Not Apply to an Advantage Accorded by a Party Pursuant to a Tax Convention.

1 For greater certainty, such determination shall be without prejudice to Title I of Part Six.

Subject to the requirement that tax measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade and investment, nothing in Titles I and II of Part Three shall be construed to prevent the adoption, maintenance or enforcement by a Party of any measure that:

aims at ensuring the equitable or effective1 imposition or collection of direct taxes; or

distinguishes between taxpayers who are not in the same situation, in particular with regard to their place of residence, or with regard to the place where their capital is invested.

1 Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Party under its taxation system which:

apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Party's territory; or

apply to non-residents in order to ensure the imposition or collection of taxes in the Party's territory; or

apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or

apply to consumers of services supplied in or from the territory of the other Party or of a third country in order to ensure the imposition or collection of taxes on such consumers derived from sources in the Party's territory; or

distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or

determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Party's tax base.

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

"direct taxes" comprise all taxes on income or capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, taxes on wages or salaries paid by enterprises and taxes on capital appreciation

"residence" means residence for tax purposes; and

"tax convention" means a convention for the avoidance of double taxation or any other international agreement or arrangement relating wholly or mainly to taxation1.

WTO Waivers

If an obligation in this Agreement is substantially equivalent to an obligation contained in the WTO Agreement, any measure taken in conformity with a waiver adopted pursuant to Article IX of the WTO Agreement is deemed to be in conformity with the substantially equivalent provision in this Agreement.

1 This includes the International Agreement on Taxation and the Protection of Financial Interests between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Spain regarding Gibraltar dated 4 March 2019.

Part FOUR. FRONTIER WORKERS

Title I. PERSONAL SCOPE

Article ARTICLE 291

Personal scope

This Part shall apply to the following persons:

Union citizens legally residing in the Kingdom of Spain;

United Kingdom nationals legally residing in Gibraltar; and

Family members of the persons referred to in point (a) provided they legally reside in Spain and family members of the persons referred to in point (b) provided they legally reside in Gibraltar. For the purposes of this Part and irrespective of their nationality, family members are:

the spouse;

the partner with whom the persons referred to in points (a) and (b) have contracted a registered partnership in accordance with the conditions laid down in the relevant legislation of a Member State or the United Kingdom, in respect of Gibraltar, provided that the legislation of Spain or the United Kingdom, in respect of Gibraltar, treats registered partnerships as equivalent to marriage and in accordance with the conditions laid down in the relevant legislation of Spain or of the United Kingdom, in respect of Gibraltar, respectively.

the direct descendants who are under the age of 21 or are dependents and those of the spouse or partner as defined in point (ii);

the dependent direct relatives in the ascending line and those of the spouse or partner as defined in point (ii).

For the purposes of this Part, persons referred to in points (a) and (b) of paragraph 1 who pursue an economic activity as an employed person either in Gibraltar or in Spain and who return at least once a week to Spain or to Gibraltar, respectively, are employed frontier workers.

For the purposes of this Part, persons referred to in points (a) and (b) of paragraph 1 who pursue an economic activity as a self-employed person both in Gibraltar, in accordance with the law of the United Kingdom, in respect of Gibraltar, and in Spain, in accordance with the law of Spain, and who return at least once per week to Spain and Gibraltar, respectively, are self-employed frontier workers.

Title II. FRONTIER WORKERS' RIGHTS AND ANCILLARY RIGHTS

Article ARTICLE 292

Frontier Workers' rights

Persons referred to in Article 291(1)(a) shall have a right to take up and pursue an activity as an employed frontier worker in Gibraltar in accordance with the rules applicable to United Kingdom nationals in Gibraltar.

Persons referred to in Article 291(1)(b) shall have a right to take up and pursue an activity as an employed frontier worker in the Kingdom of Spain in accordance with the rules applicable to Spanish nationals in the Kingdom of Spain.

Persons referred to in Article 291(1)(a) who are employed frontier workers shall enjoy the right to equal treatment with employed persons referred to in Article 291(1)(b) in Gibraltar. This shall entail:

the right not to be discriminated against on grounds of nationality as regards employment, remuneration and other conditions of work and employment;

the right to equal treatment in respect of conditions of employment and work, in particular as regards remuneration, dismissal and in case of unemployment, reinstatement or re-employment;

social and tax advantages, except rights of access to housing;

membership of trade unions and the exercise of rights attaching thereto, including the right to vote and to be eligible for the administration or management posts of a trade union, however, they may be excluded from taking part in the management of bodies governed by public law and from holding an office governed by public law;

the same rights as regards access to training in vocational schools and retraining centres.

Persons referred to in Article 291(1)(b) who are employed frontier workers shall enjoy the same right to equal treatment with employed Spanish nationals in Kingdom of Spain in respect of the matters referred to in paragraph 3.

Persons as referred to in Article 291(1)(a) and (b) shall enjoy the following rights in Gibraltar and the Kingdom of Spain, respectively:

the right to enter, stay and leave in order to register with the employment services to allow these persons to find out about the employment opportunities corresponding to their professional qualifications and, if necessary, take appropriate steps to take up employment as employed frontier workers; this shall include the right to be assisted by the employment offices under the same conditions as United Kingdom nationals in Gibraltar and Spanish nationals in the Kingdom of Spain;

the right to enter, stay and leave while employed as a frontier worker or pursuing an activity as a self-employed frontier worker;

the right to retain frontier worker status provided they are in one of the following circumstances:

they are temporarily unable to work as the result of an illness or accident;

they are in duly recorded involuntary unemployment after having been employed for more than one year and have registered as job-seekers with the relevant employment office;

they are in duly recorded involuntary unemployment after having completed a

fixed-term employment contract of less than a year or after having become involuntarily unemployed during the first twelve months and have registered as job-seekers with the relevant employment office. In this case, the status of worker shall be retained for no less than six months;

they embark on vocational training. Unless they are involuntarily unemployed, the retention of the status of worker shall require the training to be related to the previous employment.

Persons referred to in Article 291(1)(a) and (b) may be refused the right to take up employment in the public service which

involves direct or indirect participation in the exercise of powers conferred by public law and duties designed to safeguard the general interests of the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar, as the case may be or of other public authorities.

Persons referred to in Article 291(1)(a) and (b) who are self-employed frontier workers shall enjoy the rights set out in points (b) to (e) of paragraph 3.

Paragraph 7 shall apply mutatis mutandis to persons as referred to in Article 291(1)(b) who are self-employed frontier workers.

Family members of frontier workers

Family members, as defined in Article 291(1)(c) of persons referred to in Article 291(1)(a) who are employed frontier workers or self-employed frontier workers, shall enjoy a derivative right to equal treatment in the access to social and tax advantages with family members of persons referred to in Article 291(1)(b) who are employed or self-employed in Gibraltar.

The children of persons referred to in Article 291(1)(a) who are employed or self-employed frontier workers in Gibraltar provided that such children are residing in Gibraltar shall enjoy the right to equal treatment in the access to the general educational, apprenticeship and vocational training courses, with the children of persons referred to in Article 291(1)(b) employed in Gibraltar.

Paragraphs 1 and 2 shall apply mutatis mutandis to the family members and the children of persons referred to in Article 291(1)(b) who are employed frontier workers or self-employed frontier workers in the Kingdom of Spain.

Objectively justified measures

Measures derogating from equal treatment pursuant to paragraphs 3, 4, and 7 of Article 292 are permissible only if they are objectively justified. In order to be justified, they must be appropriate for securing the attainment of a legitimate objective and must not go beyond what is necessary to attain that objective.

Posted workers

Persons referred to in Article 291(1)(a) and (b) 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 shall enjoy the right to enter, leave and stay without hindrance necessary for the supply of said services and shall enjoy, on the basis of equality of treatment, the terms and conditions of employment which are laid down in the territory where the worker is posted and which are set out in that territory by law, regulation or administrative provision and/or by collective agreements or arbitration awards which have been declared universally applicable or otherwise apply in accordance with paragraph 2. These terms and conditions of employment are listed in Annex 28 to this Agreement. The application of these terms and conditions of employment shall not prevent the application of terms and conditions of employment which are more favourable to posted workers.

For the purpose of this Article, "collective agreements or arbitration awards which have been declared universally applicable" means collective agreements or arbitration awards which must be observed by all undertakings in the geographical area and in the profession or industry concerned.

In the absence of, or in addition to, a system for declaring collective agreements or arbitration awards to be of universal application within the meaning of the previous subparagraph, Gibraltar and the Kingdom of Spain, may, if they so decide, base themselves on:

collective agreements or arbitration awards which are generally applicable to all similar undertakings in the geographical area and in the profession or industry concerned; and/or

collective agreements which have been concluded by the most representative employers' and labour organisations at national level and which are applied throughout national territory.

Equality of treatment, within the meaning of paragraph 1, shall be deemed to exist where national employers in a similar position:

are subject, in the place in question or in the sector concerned, to the same obligations as posting employers as regards the matters listed in Annex 28, and

are required to fulfil such obligations with the same effects.

Documentation

Persons referred to in Article 291(1)(a) and (b) who are employed or self-employed frontier workers shall have the right to be issued with a document certifying their status under this Part. This document may be in a digital form.

Public policy, public security and public health

The rights granted under this Title may be restricted by means of measures which are justified on grounds of public policy, public security or public health.

Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned. Previous criminal convictions shall not in themselves constitute grounds for taking such measures.

The only diseases justifying measures restricting stay, entry or exit shall be the diseases with epidemic potential as defined by the relevant instruments of the World Health Organisation and other infectious diseases or contagious parasitic diseases if they are the subject to protection provisions applying to persons as referred to in Article 291(1)(a) and (b).

The persons concerned shall be notified in writing of any decision taken under point 1 in such a way that they are able to comprehend its content and the implications for them. They shall be informed, precisely and in full, of the public policy, public security or public health grounds on which the decision taken in their case is based, unless this is contrary to the interests of State security. The notification shall specify the court or administrative authority with which the person concerned may lodge an appeal, the time limit for the appeal and, where applicable, the time allowed for the person to leave the territory.

The persons concerned shall have access to judicial and, where appropriate, administrative redress procedures to appeal against or seek review of any decision taken against them on the grounds of public policy, public security or public health. The redress procedures shall allow for an examination of the legality of the decision, as well as of the facts and circumstances on which the proposed measure is based. They shall ensure that the decision is not disproportionate.

The United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, may not prevent the individual from submitting their defence in person, except when their appearance may cause serious troubles to public policy or public security or when the appeal or judicial review concerns a denial of entry to the territory.

Title III. SOCIAL SECURITY COORDINATION

Article ARTICLE 298

Social security coordination

In order to secure the social security rights of the persons covered by the Protocol on Social Security Coordination, the Kingdom of Spain and the United Kingdom, in respect of Gibraltar, shall apply their social security systems in accordance with the Protocol.

Article ARTICLE 299

Financial provisions

The Cooperation Council shall establish a financial mechanism to promote cohesion between Gibraltar and the contiguous frontier zone, including on matters of training and employment. Any such measures should take into account the protection of the Parties' financial interests against fraud and other illegal activities and irregularities.

Both Parties should provide funding for this mechanism.

Part SIX. DISPUTE SETTLEMENT

Chapter 1. GENERAL PROVISIONS

Article ARTICLE 300

Objectives

The objective of this Title is to establish an effective and efficient mechanism for avoiding and settling disputes between the Parties concerning the interpretation and application of this Agreement and supplementing agreements, with a view to reaching, where possible, a mutually agreed solution.

Scope

This Title applies, subject to paragraphs 2 to 5, to disputes between the Parties concerning the interpretation and application of the provisions of this Agreement or of any supplementing agreement ("covered provisions").

The covered provisions shall include all provisions of this Agreement and of any supplementing agreement with the exception of:

(a) Article 2;

(b) Title II of Part One;

(c) Title V of Part Two, including when applying in relation to situations governed by other provisions of this Agreement;

(d) Article 199(1), (2) and (4), 207 and 208, Chapters 3, 4, 5 and 6 of Title I of Part.

The Cooperation Council may be seized by a Party with a view to resolving a dispute with respect to obligations arising from the provisions referred to in paragraph 2.

Article 302 Applies to the Provisions Referred to In Paragraph 2.

Notwithstanding paragraphs 1 and 2, of this Part shall not apply to disputes concerning the interpretation and application of the provisions of the Protocol on Social Security Coordination or its Annexes in individual cases.

This Part does not apply to any disputes with regard to sovereignty and jurisdiction. If the respondent Party submits a reasoned statement to the arbitration tribunal, to the effect that the request may affect the legal position of the United Kingdom or of the Kingdom of Spain or with regard to sovereignty and jurisdiction, the arbitration tribunal shall not decide on the dispute with regard to sovereignty and jurisdiction or on any matter that requires or implies a decision on sovereignty or jurisdiction and shall immediately declare its lack of jurisdiction on the matters regarding sovereignty and jurisdiction or having an effect thereon.

Any decision adopted in the framework of this Part, including decisions and rulings by an arbitration tribunal, shall not produce any legal effects direct or indirect, on the legal position of the United Kingdom or of the Kingdom of Spain with regard to sovereignty and jurisdiction.

Exclusivity

The Parties undertake not to submit a dispute between them regarding the interpretation or application of provisions of this Agreement or of any supplementing agreement to a mechanism of settlement other than those provided for in this Agreement.

Choice of forum

If a dispute arises regarding a measure allegedly in breach of an obligation under this Agreement or any supplementing agreement and of a substantially equivalent obligation under another international agreement to which both Parties are party, the Party seeking redress shall select the forum in which to settle the dispute.

Once a Party has selected the forum and initiated dispute settlement procedures either under this Title or under another international agreement, that Party shall not initiate such procedures under the other international agreement with respect to the particular measure referred to in paragraph 1, unless the forum selected first fails to make findings for procedural or jurisdictional reasons.

For the purposes of this Article:

dispute settlement procedures under this Part are deemed to be initiated by a Party's request for the establishment of an arbitration tribunal under Article 305; and

dispute settlement procedures under any other agreement are deemed to be initiated if they are initiated in accordance with the relevant provisions of that agreement.

Without prejudice to paragraph 2, nothing in this Agreement or any supplementing agreement shall preclude a Party from suspending obligations authorised under the dispute settlement procedures of another international agreement to which

the Parties are party. Any international agreement between the Parties shall not be invoked to preclude a Party from suspending obligations under this Part.

Chapter 2. PROCEDURE

Article ARTICLE 304

Consultations

If a Party ("the complaining Party") considers that the other Party ("the respondent Party") has breached an obligation under this Agreement or under any supplementing agreement, the Parties shall endeavour to resolve the matter by entering into consultations in good faith, with the aim of reaching a mutually agreed solution.

The complaining Party may seek consultations by means of a written request delivered to the respondent Party. The complaining Party shall specify in its written request the reasons for the request, including the identification of the measures at issue and the legal basis for the request, and the covered provisions it considers applicable.

The respondent Party shall reply to the request promptly, and in any case no later than 10 days after the date of its delivery. Consultations shall be held within 30 days of the date of delivery of the request in person or by any other means of communication agreed by the Parties. If held in person, consultations shall take place in the territory of the respondent Party, unless the Parties agree otherwise.

The consultations shall be deemed concluded within 45 days of the date of delivery of the request, unless the Parties agree to continue consultations.

Consultations on matters of urgency, including those regarding perishable goods or seasonal goods shall be held within 20 days of the date of delivery of the request. The consultations shall be deemed concluded within those 20 days unless the Parties agree to continue consultations.

Each Party shall provide sufficient factual information to allow a complete examination of the measure at issue, including an examination of how that measure could affect the application of this Agreement or any supplementing agreement. Each Party shall endeavour to ensure the participation of personnel of their competent authorities who have expertise in the matter subject to the consultations.

The consultations referred to in paragraph 1 shall be held in the framework of the Cooperation Council, except for disputes relating to Chapters 3, 4 and 5 of Title I of Part Three. The Cooperation Council may resolve the dispute by a decision. The time periods referred to in paragraph 3 shall apply. The venue of meetings shall be governed by the rules of procedure of the Cooperation Council.

Consultations, and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential, and shall be without prejudice to the rights of either Party in any further proceedings.

Arbitration procedure

The complaining Party may request the establishment of an arbitration tribunal if:

the respondent Party does not respond to the request for consultations within 10 days of the date of its delivery;

consultations are not held within the time periods referred to in Article 304(1), (2) or (3);

the Parties agree not to have consultations; or

consultations have been concluded without a mutually agreed solution having been reached.

The request for the establishment of the arbitration tribunal shall be made by means of a written request delivered to the respondent Party. In its request, the complaining Party shall explicitly identify the measure at issue and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly.

Establishment of an arbitration tribunal

An arbitration tribunal shall be composed of three arbitrators.

No later than 10 days after the date of delivery of the request for the establishment of an arbitration tribunal, the Parties shall consult with a view to agreeing on the composition of the arbitration tribunal.

If the Parties do not agree on the composition of the arbitration tribunal within the time period provided for in paragraph 2, each Party shall appoint an arbitrator from the sub-list for that Party established pursuant to Article 319 no later than five days after the expiry of the time period provided for in paragraph 2. If a Party fails to appoint an arbitrator from its sub-list within that time period, the co-chair of the Cooperation Council from the complaining Party shall select, no later than five days after the expiry of that time period, an arbitrator by lot from the sub-list of the Party that has failed to appoint an arbitrator. The co-chair of the Cooperation Council from the complaining Party may delegate such selection by lot of the arbitrator.

If the Parties do not agree on the chairperson of the arbitration tribunal within the time period provided for in paragraph 2, the co-chair of the Cooperation Council from the complaining Party shall select, no later than five days after the expiry of that time period, the chairperson of the arbitration tribunal by lot from the sub-list of chairpersons established pursuant to Article 319. The co-chair of the Cooperation Council from the complaining Party may delegate such selection by lot of the chairperson of the arbitration tribunal.

Should any of the lists provided for in Article 319 not be established or not contain sufficient names at the time a selection is made pursuant to paragraphs 3 or 4, the arbitrators shall be selected by lot from the individuals who have been formally proposed by one Party or both Parties in accordance with Annex 29 on the Rules of Procedure for Dispute Settlement.

The date of establishment of the arbitration tribunal shall be the date on which the last of the three arbitrators has notified to the Parties the acceptance of their appointment in accordance with Annex 29 on the Rules of Procedure.

Requirements for arbitrators

All arbitrators shall:

have demonstrated expertise in law, including international law, and in any matter covered by this Agreement or by any supplementing agreement and, in the case of a chairperson, also have experience in arbitration procedures;

not be affiliated with or take instructions from either Party;

serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute; and

comply with Annex 30 on the Code of Conduct for arbitrators.

All arbitrators shall be persons whose independence is beyond doubt, who possess the qualifications required for appointment to high judicial office in their respective jurisdictions or who are jurisconsults of recognised competence.

Functions of the arbitration tribunal

The arbitration tribunal:

shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of, and conformity of the measures at issue with, the covered provisions;

shall set out, in its decisions and rulings, the findings of facts and law and the rationale behind any findings that it makes; and

should consult regularly with the Parties and provide adequate opportunities for the development of a mutually agreed solution.

Terms of reference

Unless the Parties agree otherwise no later than five days after the date of the establishment of the arbitration tribunal, the terms of reference of the arbitration tribunal shall be:

"to examine, in the light of the relevant covered provisions of this Agreement or of a supplementing agreement, the matter referred to in the request for the establishment of the arbitration tribunal, to decide on the conformity of the measure at issue with the provisions referred to in Article 301 and to issue a ruling in accordance with 311".

If the Parties agree on terms of reference other than those referred to in paragraph 1, they shall notify the agreed terms of reference to the arbitration tribunal within the time period referred to in paragraph 1.

Urgent proceedings

If a Party so requests, the arbitration tribunal shall decide, no later than 10 days after the date of its establishment, whether

the case concerns matters of urgency.

In cases of urgency, the applicable time periods set out in Article 311 shall be half the time prescribed therein.

Ruling of the arbitration tribunal

The arbitration tribunal shall deliver an interim report to the Parties within 100 days after the date of establishment of the arbitration tribunal. If the arbitration tribunal considers that this deadline cannot be met, the chairperson of the arbitration tribunal shall notify the Parties in writing, stating the reasons for the delay and the date on which the arbitration tribunal plans to deliver its interim report. The arbitration tribunal shall deliver its interim report no later than 130 days after the date of establishment of the arbitration tribunal under any circumstances.

Each Party may deliver to the arbitration tribunal a written request to review precise aspects of the interim report within 14 days of its delivery. A Party may comment on the other Party's request within six days of the delivery of the request.

If no written request to review precise aspects of the interim report is delivered within the time period referred to in paragraph 2, the interim report shall become the ruling of the arbitration tribunal.

The arbitration tribunal shall deliver its ruling to the Parties within 130 days of the date of establishment of the arbitration tribunal. When the arbitration tribunal considers that that deadline cannot be met, its chairperson shall notify the Parties in writing, stating the reasons for the delay and the date on which the arbitration tribunal plans to deliver its ruling. The arbitration tribunal shall not under any circumstances deliver its ruling later than 160 days after the date of establishment of the arbitration tribunal.

The ruling shall include a discussion of any written request by the Parties on the interim report and clearly address the comments of the Parties.

For greater certainty, a "ruling" or "rulings" as referred to in Articles 308, 309, 320 and Article 321(1), (3), (4) and (6) shall be understood to refer also to the interim report of the arbitration tribunal.

Disputes raising issues of interpretation on Union law

Where a dispute submitted to arbitration in accordance with this Part raises a question of interpretation of a concept or a provision of Union law contained in a Union act referred to in this Agreement, the arbitration panel shall not decide on any such question. In such case, it shall request the Court of Justice of the European Union to give a ruling on the question. The Court of Justice of the European Union shall have jurisdiction to give such a ruling which shall be binding on the arbitration panel.

The arbitration panel shall make such request after having heard the Parties.

Without prejudice to the first sentence of the first subparagraph of paragraph 1, if the Union or the United Kingdom, in respect of Gibraltar, considers that a request in accordance with paragraph 1 is to be made, it may make submissions to the arbitration panel to that effect. In such case, the arbitration panel shall submit the request in accordance with paragraph 1 unless the question raised does not concern the interpretation of a concept or a provision of Union law contained in a Union act referred to in this Agreement. The arbitration panel shall provide reasons for its assessment. Within 10 days following the assessment, either Party may request the arbitration panel to review its assessment, and a hearing shall be organised within 15 days of the request for the Parties to be heard on the matter. The arbitration panel shall provide reasons for its assessment.

In the cases referred to in paragraphs 1 and 2, the time limits laid down in Article 311 shall be suspended until the Court of Justice of the European Union has given its ruling. The arbitration panel shall not be required to give its ruling less than 60 days from the date on which the Court of Justice of the European Union has given its ruling.

Chapter 3. COMPLIANCE

Article ARTICLE 313

Compliance measures

If, in its ruling referred to in Article 311(4), the arbitration tribunal finds that the respondent Party has breached an obligation under this Agreement or under any supplementing agreement, that Party shall take the necessary measures to comply immediately with the ruling of the arbitration tribunal in order to bring itself in compliance with the covered provisions.

The respondent Party, no later than 30 days after delivery of the ruling, shall deliver a notification to the complaining Party of the measures which it has taken or which it envisages to take in order to comply.

Reasonable period of time

If immediate compliance is not possible, the respondent Party, no later than 30 days after delivery of the ruling referred to in Article 311(4), shall deliver a notification to the complaining Party of the length of the reasonable period of time it will require for compliance with the ruling referred to in Article 311(4). The Parties shall endeavour to agree on the length of the reasonable period of time to comply.

If the Parties have not agreed on the length of the reasonable period of time, the complaining Party may, at the earliest 20 days after the delivery of the notification referred to in paragraph 1, request in writing that the original arbitration tribunal determines the length of the reasonable period of time. The arbitration tribunal shall deliver its decision to the Parties within 20 days of the date of delivery of the request.

The respondent Party shall deliver a written notification of its progress in complying with the ruling referred to in Article 311(4) to the complaining Party at least one month before the expiry of the reasonable period of time.

The Parties may agree to extend the reasonable period of time.

Compliance review

The respondent Party shall, no later than the date of expiry of the reasonable period of time, deliver a notification to the complaining Party of any measure that it has taken to comply with the ruling referred to in Article 311(4).

When the Parties disagree on the existence of, or the consistency with the covered provisions of, any measure taken to comply, the complaining Party may deliver a request, which shall be in writing, to the original arbitration tribunal to decide on the matter. The request shall identify any measure at issue and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly. The arbitration tribunal shall deliver its decision to the Parties within 45 days of the date of delivery of the request.

Temporary measures

The respondent Party shall, at the request of and after consultations with the complaining Party, present an offer for temporary compensation if:

the respondent Party delivers a notification to the complaining Party that it is not possible to comply with the ruling referred to in Article 311; or

the respondent Party fails to deliver a notification of any measure taken to comply within the deadline referred to in Article 313 or before the date of expiry of the reasonable period of time referred to in Article 314; or

the arbitration tribunal finds that no measure taken to comply exists or that the measure taken to comply is inconsistent with the covered provisions.

Under any of the circumstances referred to in paragraph 1, the complaining Party may deliver a written notification to the respondent Party that it intends to suspend the application of obligations under the covered provisions if:

the complaining Party decides not to make a request under paragraph 1; or

the Parties do not agree on the temporary compensation within 20 days after the expiry of or the delivery of the arbitration tribunal decision under Article 315 if a request under paragraph 1 is made.

The notification shall specify the level of intended suspension of obligations.

Obligations under the Protocol on Social Security Coordination or its Annexes may not be suspended under this Article.

The suspension of obligations shall not exceed the level equivalent to the nullification or impairment caused by the violation.

The complaining Party may suspend the obligations 10 days after the date of delivery of the notification referred to in paragraph 2 unless the respondent Party made a request under paragraph 6.

If the respondent Party considers that the notified level of suspension of obligations exceeds the level equivalent to the nullification or impairment caused by the violation, it may deliver a written request to the original arbitration tribunal before the expiry of the 10 day period set out in paragraph 5 to decide on the matter. The arbitration tribunal shall deliver its

decision to the Parties within 30 days of the date of the request. Obligations shall not be suspended until the arbitration tribunal has delivered its decision. The suspension of obligations shall be consistent with that decision.

The suspension of obligations or the compensation referred to in this Article shall be temporary and shall not be applied after:

the Parties have reached a mutually agreed solution pursuant to Article 323;

the Parties have agreed that the measure taken to comply brings the respondent Party into compliance with the covered provisions; or

any measure taken to comply which the arbitration tribunal has found to be inconsistent with the covered provisions has been withdrawn or amended so as to bring the respondent Party into compliance with those covered provisions.

Review of any measure taken to comply after the adoption of temporary measures

The respondent Party shall deliver a notification to the complaining Party of any measure it has taken to comply following the suspension of obligations or following the application of temporary compensation, as the case may be. The complaining Party shall terminate the suspension of obligations within 30 days from the delivery of the notification. In cases where compensation has been applied, the respondent Party may terminate the application of such compensation within 30 days from the delivery of its notification that it has complied.

If the Parties do not reach an agreement on whether the notified measure brings the respondent Party into compliance with the covered provisions within 30 days of the date of delivery of the notification, the complaining Party shall deliver a written request to the original arbitration tribunal to decide on the matter. The arbitration tribunal shall deliver its decision to the Parties within 46 days of the date of the delivery of the request. If the arbitration tribunal finds that the measure taken to comply is in conformity with the covered provisions, the suspension of obligations or compensation, as the case may be, shall be terminated. When relevant, the level of suspension of obligations or of compensation shall be adjusted in light of the arbitration tribunal decision.

Chapter 4. COMMON PROCEDURAL PROVISIONS

Article ARTICLE 318

Receipt of information

On request of a Party, or on its own initiative, the arbitration tribunal may seek from the Parties relevant information it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the arbitration tribunal for such information.

On request of a Party, or on its own initiative, the arbitration tribunal may seek from any source any information it considers appropriate. The arbitration tribunal may also seek the opinion of experts as it considers appropriate and subject to any terms and conditions agreed by the Parties, where applicable.

The arbitration tribunal shall consider amicus curiae submissions from natural persons of a Party or legal persons established in a Party in accordance with Annex 29 on Rules of Procedure.

Any information obtained by the arbitration tribunal under this Article shall be made available to the Parties and the Parties may submit comments on that information to the arbitration tribunal.

List of arbitrators

The Cooperation Council shall, no later than one year after the date of entry into force of this Agreement, establish a list of individuals with expertise in sectors covered by this Agreement or its supplementing agreements who are willing and able to serve as members of an arbitration tribunal. The list shall comprise at least 15 persons and shall be composed of three sub-lists:

one sub-list of individuals established on the basis of proposals by the Union;

one sub-list of individuals established on the basis of proposals by the United Kingdom, in respect of Gibraltar; and

one sub-list of individuals who are not nationals of either Party who shall serve as chairperson to the arbitration tribunal.

Each sub-list shall include at least five individuals. The Cooperation Council shall ensure that the list is always maintained at

this minimum number of individuals.

The list referred to in paragraph 1 shall not comprise persons who are members, officials or other servants of the Union institutions, of the Government of a Member State, or of the Government of the United Kingdom or of Gibraltar.

Replacement of arbitrators

If during dispute settlement procedures under this Part, an arbitrator is unable to participate, withdraws, or needs to be replaced because that arbitrator does not comply with the requirements of the Code of Conduct, the procedure set out in Article 306 shall apply. The time period for the delivery of the ruling or decision shall be extended for the time necessary for the appointment of the new arbitrator.

Arbitration tribunal decisions and rulings

The deliberations of the arbitration tribunal shall be kept confidential. The arbitration tribunal shall make every effort to draft rulings and take decisions by consensus. If this is not possible, the arbitration tribunal shall decide the matter by majority vote. In no case shall separate opinions of arbitrators be disclosed.

The decisions and rulings of the arbitration tribunal shall be binding on the Union and on the United Kingdom. They shall not create any rights or obligations with respect to natural or legal persons.

Decisions and rulings of the arbitration tribunal cannot add to or diminish the rights and obligations of the Parties under this Agreement or under any supplementing agreement.

For greater certainty, the arbitration tribunal shall have no jurisdiction to determine the legality of a measure alleged to constitute a breach of this Agreement or of any supplementing agreement, under the domestic law of a Party. No finding made by the arbitration tribunal when ruling on a dispute between the Parties shall bind the domestic courts or tribunals of either Party as to the meaning to be given to the domestic law of that Party.

Each Party shall make the rulings and decisions of the arbitration tribunal publicly available, subject to the protection of confidential information.

The information submitted by the Parties to the arbitration tribunal shall be treated in accordance with the confidentiality rules laid down in Annex 29 on Rules of Procedure.

Suspension and termination of the arbitration proceedings

At the request of both Parties, the arbitration tribunal shall suspend its work at any time for a period agreed by the Parties and not exceeding 12 consecutive months. The arbitration tribunal shall resume its work before the end of the suspension period at the written request of both Parties, or at the end of the suspension period at the written request of either Party. The requesting Party shall deliver a notification to the other Party accordingly. If a Party does not request the resumption of the arbitration tribunal's work at the expiry of the suspension period, the authority of the arbitration tribunal shall lapse and the dispute settlement procedure shall be terminated. In the event of a suspension of the work of the arbitration tribunal, the relevant time periods shall be extended by the same time period for which the work of the arbitration tribunal was suspended.

Mutually agreed solution

The Parties may at any time reach a mutually agreed solution with respect to any dispute referred to in Article 301.

If a mutually agreed solution is reached during panel proceedings, the Parties shall jointly notify the agreed solution to the chairperson of the arbitration tribunal. Upon such notification, the arbitration proceedings shall be terminated.

The solution may be adopted by means of a decision of the Cooperation Council. Mutually agreed solutions shall be made publicly available. The version disclosed to the public shall not contain any information either Party has designated as confidential.

Each Party shall take the measures necessary to implement the mutually agreed solution within the agreed time period.

No later than the date of expiry of the agreed time period, the implementing Party shall inform the other Party in writing of any measures thus taken to implement the mutually agreed solution.

Time periods

All time periods laid down in this Part shall be counted in days from the day following the act to which they refer.

Any time period referred to in this Part may be modified by mutual agreement of the Parties.

The arbitration tribunal may at any time propose to the Parties to modify any time period referred to in this Part, stating the reasons for the proposal.

Costs

Each Party shall bear its own expenses derived from the participation in the arbitration tribunal procedure.

The Parties shall share jointly and equally the expenses derived from organisational matters, including the remuneration and expenses of the members of the arbitration tribunal. The remuneration of the arbitrators shall be in accordance with Annex 29 on Rules of Procedures.

Annexes

Dispute settlement procedures set out in this Part shall be governed by the rules of procedure set out in Annex 29 on Rules of Procedure and conducted in accordance with the Annex 30 on Code of Conduct.

The Cooperation Council may amend the Annex on the Rules of procedure and the Annex on Code of Conduct.

Special procedures for remedial measures

For the purposes of Article 209, this Title applies with the modifications set out in this Article.

By way of derogation from Article 306 and Annex 29, if the Parties do not agree on the composition of the arbitration tribunal within two days, the co-chair of the Cooperation Council from the complaining Party shall select, no later than one day after the expiry of the two-day time period, an arbitrator by lot from the sub-list of each Party and the chairperson of the arbitration tribunal by lot from the sub-list of chairpersons established pursuant to Article 319. The co-chair of the Cooperation Council from the complaining Party may delegate such selection by lot of the arbitrator or chairperson. Each individual shall confirm their availability to both Parties within two days from the date on which they were informed of their appointment. The organisational meeting referred to in Rule 10 of Annex 29 shall take place within two days from the establishment of the arbitration tribunal.

By way of derogation from Rule 13 of Annex 29, the complaining Party shall deliver its written submission no later than seven days after the date of establishment of the arbitration tribunal. The respondent Party shall deliver its written submission no later than seven days after the date of delivery of the written submission of the complaining Party. The arbitration tribunal shall adjust any other relevant time periods of the dispute settlement procedure as necessary to ensure the timely delivery of the report.

Article 311 Does Not Apply and References to the Ruling In this Title Shall Be Read as References to the Ruling Referred to In Article 209(10).

By way of derogation from Article 315, the arbitration tribunal shall deliver its decision to the Parties within 30 days from the date of delivery of the request.

Part SEVEN. FINAL PROVISIONS

Article 328. Territorial Scope

This Agreement applies to:

(a) the territories to which the Treaty on the European Union and the Treaty on the Functioning of the European Union are applicable, and under the conditions laid down in those Treaties; and

(b) the territory of Gibraltar.

Article 329. Relationship with other Agreements

1. This Agreement is not a supplementing agreement to the Trade and Cooperation Agreement, as defined in Article 2 (Supplementing agreements) of the Trade and Cooperation Agreement.

2. This Agreement and any supplementing agreement applies without prejudice to any earlier bilateral agreement concerning Gibraltar between the United Kingdom, of the one part, and the Union, of the other part. The Parties reaffirm their obligations to implement any such agreement.

Article 330. Review

The Parties shall jointly review the implementation of this Agreement and supplementing agreements and any matters related thereto four years after the entry into force of this Agreement and regularly thereafter.

Article 331. Confidential Information

1. Nothing in this Agreement or in any supplementing agreement shall be construed as requiring a Party to make available confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private, except where an arbitration tribunal requires such confidential information in dispute settlement proceedings under Part Six or a panel of experts under Title I of Part Three. In such cases, the arbitration tribunal shall ensure that confidentiality is fully protected in accordance with Annex 29 on Rules of Procedure.

2. When a Party submits information to the Cooperation Council or to Specialised Committees that is considered confidential under its laws and regulations, the other Party shall treat that information as confidential, unless the submitting Party agrees otherwise.

Article 332. Classified Information and Sensitive Non-classified Information

1. Nothing in this Agreement or in any supplementing agreement shall be construed as requiring a Party to make available classified information.

2. The Parties shall agree on handling instructions to ensure the protection of sensitive non classified and classified information and material exchanged between them.

Article 333. Integral Parts of this Agreement

1. The Protocols, Annexes, Appendices and footnotes to this Agreement shall form an integral part of this Agreement.

2. Each of the Annexes to this Agreement, including its appendices, shall form an integral part of the Part, Title, Chapter or Protocol that refers to that Annex or to which reference is made in that Annex.

Article 334. Termination

Either Party may terminate this Agreement by written notification through diplomatic channels. This Agreement and any supplementing agreement shall cease to be in force on the first day of the twelfth month following the date of notification.

Article 335. Authentic Texts

This Agreement shall be drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

Article 336. Entry Into Force and Application

1. This Agreement shall enter into force on the first day of the month following that in which both Parties have notified each other that they have completed their respective internal requirements and procedures for establishing their consent to be bound.

2. The Parties may agree to provisionally apply this Agreement from a date prior to the day referred to in paragraph 1, provided that prior to the date from which this Agreement is provisionally applied the Parties have notified each other of the fact that the implementation plan referred to in Article 7 and the administrative arrangements referred to in Articles 29, 33, 38, 55, 56, 251, 260, 265 and SSC.31 are in effect and have been fully implemented, and that the measures described in Article 258 are in place.

3. Provisional application shall cease on the day referred to in paragraph 1.

4. As from the date from which this Agreement is provisionally applied, the Parties shall understand references in this Agreement to "the date of entry into force of this Agreement" or to "the entry into force of this Agreement" as references to

the date from which this Agreement is provisionally applied.

5. Titles I to IV of Part Two, Title II of Part Three and Title III of Part Four shall cease to apply as from the day on which the administrative arrangements referred to in Articles 29, 33, 38, 55, 56, 251, 260, 265 and SSC.31 are suspended or terminated in accordance with the provisions thereof. They shall start applying anew as from the day on which the suspension of these administrative arrangements is lifted or on which new administrative arrangements are concluded.

ANNEX 29. RULES OF PROCEDURE FOR DISPUTE SETTLEMENT

I. Definitions

1. For the purposes of Part Six (Dispute settlement) 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 DS.7 (Establishment of an arbitration tribunal) of Part Six (Dispute Settlement);

(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 (Establishment of an arbitration tribunal);

(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 European 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 (Establishment of an arbitration tribunal)of Part Six (Dispute Settlement), 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 (Establishment of an arbitration tribunal), 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 (List of arbitrators), 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 (List of arbitrators).

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 (Annexes).

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 procedure. 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 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 (Dispute Settlement) or in these Rules of Procedure, the arbitration tribunal may conduct its activities through 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 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 (Dispute Settlement)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 procedure other than the time periods set out in Part Six (Dispute Settlement) 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 (Code of Conduct for Arbitrators) and for this 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 (Establishment of an arbitration tribunal).

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 (Code of Conduct for Arbitrators), the new arbitrator shall be selected in accordance with Article 306 (Establishment of an arbitration tribunal).

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 (List of arbitrators). 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 (Code of Conduct for Arbitrators), the chairperson shall be selected in accordance with Article 306 (Establishment of an arbitration tribunal).

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 and in London if the complaining Party is the European 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 DS.19 (Receipt of information).

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 contains 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;

(f) specify the nature of the interest that the person has in the arbitration proceedings; and

(g) are drafted in the working language determined in accordance with Rules 46 or 47 of these Rules of Procedure.

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 (Urgent proceedings), 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. 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 Article 314 (Reasonable period of time), Article 315 (Compliance review), Article 316 (Temporary remedies) and Article 317 (Review of any measure taken to comply after the adoption of temporary measures) of Part Six (Dispute Settlement).

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) the definition of "assistant" set out in the Rules of Procedure (Annex 29) shall apply; and

(c) "candidate" means an individual who is under consideration for selection as an arbitrator pursuant to 306 (Establishment of an arbitration tribunal) or Article 319 (List of arbitrators)of Part Six (Dispute Settlement).

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 (Establishment of an arbitration tribunal) of Part Six of this Agreement (Dispute Settlement), 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 (Governing principles), III (Disclosure obligations) and VII (Confidentiality), 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 (Establishment of an arbitration tribunal) or Article 319 (List of arbitrators) of Part Six (Dispute Settlement) 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 (Confidentiality) 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 (Arbitration tribunal decisions and rulings) of Part Six (Dispute Settlement).

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