

## ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

### **DECISION No 1/2023 OF THE JOINT COMMITTEE ESTABLISHED BY THE AGREEMENT ON THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FROM THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY**

**of 24 March 2023**

**laying down arrangements relating to the Windsor Framework [2023/819]**

THE JOINT COMMITTEE,

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

Whereas:

- (1) Pursuant to Article 166(2) of the Withdrawal Agreement, the decisions adopted by the Joint Committee established under Article 164(1) thereof ('the Joint Committee') are binding on the Union and the United Kingdom. The Union and the United Kingdom are to implement such decisions, which have the same legal effect as the Withdrawal Agreement.
- (2) Under Article 182 of the Withdrawal Agreement, the Protocol forms an integral part of that Agreement.
- (3) Article 164(5)(d) of the Withdrawal Agreement empowers the Joint Committee to adopt decisions amending the Withdrawal Agreement, provided that such amendments are necessary to correct errors, to address omissions or other deficiencies, or to address situations unforeseen when the Agreement was signed, and provided that such decisions do not amend essential elements of that Agreement.
- (4) The Union and the United Kingdom have made a Joint Declaration in the Joint Committee to the effect that, wherever relevant in their dealings under the Withdrawal Agreement, they will, consistent with the requirements of legal certainty, refer to the Protocol as amended as the 'Windsor Framework', and that they may in the same way refer to the Protocol as amended in their domestic legislation.
- (5) The Union and United Kingdom recall their shared commitment that the Good Friday or Belfast Agreement of 10 April 1998 between the Government of the United Kingdom, the Government of Ireland and the other participants in the multi-party negotiations ('the 1998 Agreement'), which is annexed to the British-Irish Agreement of the same date, including its subsequent implementation agreements and arrangements, should be protected in all its parts.
- (6) Having regard to the specific circumstances of Northern Ireland, facilitations referred to in Article 6(2) of the Protocol should include specific arrangements for the movement of goods within the United Kingdom's internal market, consistent with Northern Ireland's position as part of the customs territory of the United Kingdom in accordance with the Protocol, where the goods are destined for final consumption or final use in Northern Ireland and where the necessary safeguards are in place to protect the integrity of the Union's internal market and customs union.

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

- (7) An emergency brake mechanism should be established enabling Members of the Legislative Assembly in Northern Ireland, under each of the conditions set out in paragraph 1 of the Unilateral Declaration by the United Kingdom on involvement of the institutions of the 1998 Agreement annexed to this Decision, to address significant impacts specific to everyday lives of communities arising from the application in Northern Ireland of provisions of Union law, as amended or replaced by future Union acts.
- (8) As regards VAT and excise, having regard to the specific circumstances of Northern Ireland, including its integral place in the United Kingdom's internal market, certain amendments to Annex 3 to the Protocol should be made. These amendments should not lead to fiscal fraud risks or to any potential distortion of competition. Their implementation in Northern Ireland, and in particular the implementation of the special scheme for distance sales of goods imported from third territories or third countries, should neither create risks to the Union's internal market, and the United Kingdom's internal market, nor create undue burdens for businesses operating in Northern Ireland.
- (9) In order to clarify the scope of application of certain acts already listed in Annex 3 to the Protocol, two notes should be added to that Annex. In order to ensure that any other notes could be added to that Annex at any point in time, such possibility should be provided in this Decision.
- (10) As regards the movement of goods, Article 5(2) of the Protocol empowers the Joint Committee to adopt decisions establishing the conditions under which processing is not to be considered as commercial processing and the criteria for considering that a good brought into Northern Ireland from outside the Union is not at risk of subsequently being moved into the Union.
- (11) It is desirable to improve the operation of the schemes set out in Joint Committee Decision No 4/2020 <sup>(2)</sup>, including in relation to goods sent in parcels to Northern Ireland from other parts of the United Kingdom, which will enable provision to be made for far reaching facilitations in the area of customs.
- (12) In accordance with Article 175 of the Withdrawal Agreement, the Union and the United Kingdom will take measures necessary to comply rapidly and in good faith with an arbitration panel ruling concerning the conditions for suspension, termination and becoming applicable of provisions of this Decision.
- (13) Joint Committee Decision No 4/2020 should be replaced by Section 2 of this Decision.
- (14) As regards the establishment of an enhanced coordination mechanism related to the functioning of the Protocol in the areas of VAT and excise, in accordance with Article 164(5)(c) of the Withdrawal Agreement, the Joint Committee may *inter alia* change the tasks assigned to specialised committees.
- (15) Pursuant to Article 8, fourth paragraph, of the Protocol, the Joint Committee is to regularly discuss the implementation of that Article, including as concerns the reductions and exemptions provided for in the provisions referred to in the first paragraph of that Article, and is, where appropriate, to adopt measures for its proper application, as necessary.
- (16) Under Article 8, fifth paragraph, of the Protocol, the Joint Committee may review the application of that Article, taking into account Northern Ireland's integral place in the United Kingdom's internal market, and may adopt appropriate measures as necessary.
- (17) To ensure the effectiveness of Article 8 of the Protocol and in particular to take account of Northern Ireland's integral place in the United Kingdom's internal market, the Union and the United Kingdom should assess in a structured manner any issues arising from the implementation and application of Article 8, including in particular the potential impact on Northern Ireland of any future policy and regulatory initiatives in the Union and the United Kingdom in the areas of VAT and excise concerning goods.

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<sup>(2)</sup> Decision No 4/2020 of the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 17 December 2020 on the determination of goods not at risk [2020/2248] (OJ L 443, 30.12.2020, p. 6).

- (18) It is therefore appropriate to establish an enhanced coordination mechanism to allow the Union and the United Kingdom to identify and discuss any issues relating to the functioning of the Protocol in the areas of VAT and excise and to propose appropriate action, as necessary. To that end, specific meetings of the Specialised Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland established by Article 165 (1)(c) of the Withdrawal Agreement should be convened to discuss VAT and excise concerning goods as necessary. These meetings will be known as the Enhanced Coordination Mechanism on VAT and excise,

HAS ADOPTED THIS DECISION:

## SECTION 1

### *Amendments to the Protocol*

#### *Article 1*

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

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

#### *Article 2*

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

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

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

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

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

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

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

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

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

(\*) Decision no 1/2023 of the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 laying down arrangements relating to the Windsor Framework [2023/819] (OJ L 102, 17.4.2023, p. 61).<sup>1</sup>

### Article 3

Annex 3 to the Protocol shall be amended as follows:

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

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

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

The United Kingdom in respect of Northern Ireland shall not be required to apply the special scheme on small enterprises, laid down in Title XII, Chapter 1, of Directive 2006/112/EC, as amended by Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises (\*), to and in the United Kingdom in respect of Northern Ireland, and may therefore apply any exemption scheme to taxable persons whose annual turnover, attributable to supplies of goods and services, complies with the rules on the threshold of turnover laid down in Article 284(1), Article 288 and Article 288a(1) and (3) of Directive 2006/112/EC, as amended by Council Directive (EU) 2020/285. The equivalent in pounds sterling of the

threshold of turnover referred to in Article 284(1) shall be calculated by applying the exchange rate on the day following the date of entry into force of Directive (EU) 2020/285, as published by the European Central Bank. To take account of variations in this exchange rate over time, a maximum difference of 15 % shall be allowed when calculating the equivalent of the threshold of EUR 85 000.

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

(\*) OJ L 62, 2.3.2020, p. 1.;

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

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

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

#### Article 4

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

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

## SECTION 2

***Determination of goods not at risk and repeal of Decision No 4/2020****Article 5***Subject matter**

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

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

*Article 6***Non-commercial processing**

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

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

*Article 7***Criteria for considering goods not to be at risk of subsequently being moved into the Union**

1. A good shall be considered not to be at risk of subsequently being moved into the Union, where it is not considered to be subject to commercial processing in accordance with Article 6 of this Decision, and where:

- (a) in the case of goods brought into Northern Ireland from another part of the United Kingdom by direct transport:
  - (i) the duty payable according to the Union Common Customs Tariff is equal to zero; or
  - (ii) the importer has been authorised in accordance with Articles 9 to 11 of this Decision to bring that good into Northern Ireland for its sale to, or final use by, end consumers located in the United Kingdom, including where that good has been subject to non-commercial processing in accordance with Article 6 of this Decision before its sale to, or final use by, end consumers; or
  - (iii) it is sent in a parcel, and
    - (aa) it is of a non-commercial nature and is sent by a private individual to another private individual residing in Northern Ireland; or

- (bb) it is sent by an economic operator through a carrier authorised in accordance with Article 12 of this Decision to a private individual residing in Northern Ireland and is exclusively for personal use.
- (b) in the case of goods brought into Northern Ireland by direct transport other than from the Union or another part of the United Kingdom:
  - (i) the duty payable according to the Union Common Customs Tariff is equal to or less than the duty payable according to the customs tariff of the United Kingdom; or
  - (ii) the importer has been authorised in accordance with Articles 9 to 11 of this Decision to bring that good into Northern Ireland for its sale to, or final use by, end consumers located in Northern Ireland (including where that good has been subject to non commercial processing in accordance with Article 6 of this Decision before its sale to, or final use by, end consumers), and the difference between the duty payable according to the Union Common Customs Tariff and the duty payable according to the customs tariff of the United Kingdom is lower than 3% of the customs value of the good.
- 2. Paragraphs 1(a)(ii), 1(a)(iii) and 1(b)(ii) shall not apply to goods subject to trade defence measures adopted by the Union.
- 3. For the purposes of this Decision, 'parcel' means a package containing:
  - (a) goods, other than an item of correspondence, with a total gross weight not exceeding 31,5 kg; or
  - (b) a single item good, other than an item of correspondence, with a total gross weight not exceeding 100 kg, in relation to a commercial transaction.

#### *Article 8*

### **Determination of the applicable duties**

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

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

#### *Article 9*

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

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

- (c) the authority having granted the authorisation;
- (d) the date of taking effect of the authorisation.

4. The provisions of Union customs legislation on decisions relating to the application of the customs legislation shall apply to applications and authorisations referred to in this Article, including as regards monitoring.

5. In cases where the competent customs authority of the United Kingdom observes deliberate misuse of an authorisation or breaches of conditions for an authorisation set out in this Decision the authority shall suspend or revoke the authorisation.

6. The Union representatives may request that the competent customs authority of the United Kingdom verify a specific authorisation. The competent customs authority of the United Kingdom will take appropriate steps in response to such request and will provide information about the action undertaken within 30 days.

#### *Article 10*

##### **General conditions for authorisation**

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

- (a) meet the following establishment criteria:
  - (i) they are established in Northern Ireland or they have a fixed place of business in Northern Ireland
    - where human and technical resources are permanently present; and
    - from where goods are sold to, or provided for final use by, end consumers; and
    - where customs, commercial and transport records and information are available or accessible in Northern Ireland, or
  - (ii) they are established in parts of the United Kingdom other than Northern Ireland and fulfil the following criteria:
    - their customs related operations are carried out in the United Kingdom;
    - they have an indirect customs representative in Northern Ireland;
    - their customs, commercial and transport records and information are available or accessible in the United Kingdom to the competent authorities of the United Kingdom and the Union representatives for verifying compliance with the conditions and undertakings given pursuant to this Decision; and
- (b) undertake to bring goods into Northern Ireland solely for sale to, or final use by, end consumers in the United Kingdom, including where those goods have been subject to non-commercial processing in accordance with Article 6 of this Decision before their sale to, or final use by, end consumers in the United Kingdom; and, in the case of a sale to end consumers in Northern Ireland, undertake that the sale will be from one or several physical outlets in Northern Ireland from which physical direct sales are made to end consumers.

#### *Article 11*

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

1. For the purposes of Article 7(1)(a)(ii) and Article 7(1)(b)(ii) of this Decision, an authorisation to bring goods into Northern Ireland shall only be granted to applicants fulfilling the conditions set out in Article 10 of this Decision as well as the following conditions, as further explained in Annex III to this Decision:

- (a) the applicant declares they will declare for release for free circulation goods brought into Northern Ireland in accordance with Article 7(1)(a)(ii) or Article 7(1)(b)(ii) of this Decision;



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

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

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

## Article 12

### Specific conditions for authorisation of Carriers

1. For the purposes of Article 7(1)(a)(iii)(bb) of this Decision, an economic operator moving parcels, including the United Kingdom designated postal operator, can apply to be an authorised carrier moving parcels from another part of the United Kingdom to Northern Ireland ('Authorised Carrier') if it fulfils the following conditions:

- (a) it has registered as an economic operator;
- (b) it is established in the United Kingdom and, in case it is not established in Northern Ireland, it has an indirect customs representative there;
- (c) within three years prior to application it must not have committed any serious infringement or repeated infringements of a legislative or regulatory requirement that is relevant to its economic activity;
- (d) it must have a high level of control of its operations, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate controls and provision of evidence to support its economic activity.

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

*Article 13***Obligations of Authorised Carriers**

An Authorised Carrier shall:

- (a) take responsibility for establishing that the goods in each parcel are of the type described in Article 138, point (l), of Commission Delegated Regulation (EU) 2015/2446 <sup>(3)</sup>;
- (b) maintain operational processes that enable it to distinguish between economic operators and private individuals as recipients or senders of parcels;
- (c) be able to determine whether the goods they bring into Northern Ireland correspond to category 1 as set out in Annex IV to this Decision;
- (d) maintain systems that enable it to collect and share the data referred to in Annex 52-03 to Delegated Regulation (EU) 2015/2446;
- (e) provide to the United Kingdom competent authority the data referred to in Article 141(1)(d)(vii) of Delegated Regulation (EU) 2015/2446 at regular intervals and under the conditions set out therein;
- (f) report to the United Kingdom competent authority any suspicious activity relating to the movement of parcels referred to in Article 7(1)(a)(iii)(bb) of this Decision;
- (g) respond to ad hoc requests from the United Kingdom competent authority for further information;
- (h) comply with any instructions from the United Kingdom competent authority as to the movements of parcels referred to in Article 7(1)(a)(iii)(bb) of this Decision.

*Article 14***Exchange of information on the application of Article 5(1) and (2) of the Protocol**

1. Without prejudice to its obligations pursuant to Article 5(4) of the Protocol, read in conjunction with Regulation (EC) No 638/2004 of the European Parliament and of the Council <sup>(4)</sup> and Regulation (EC) No 471/2009 of the European Parliament and of the Council <sup>(5)</sup>, the United Kingdom shall provide the Union with information on the application of Article 5(1) and (2) of the Protocol as well as of this Decision on a monthly basis. This information shall comprise volumes and values, in aggregated form and per consignment, as well as means of transport, relating to:

- (a) goods brought into Northern Ireland in relation to which no customs duties were payable in accordance with the first subparagraph of Article 5(1) of the Protocol;
- (b) goods brought into Northern Ireland in relation to which the customs duties payable were those applicable in the United Kingdom in accordance with the second subparagraph of Article 5(1) of the Protocol; and
- (c) goods brought into Northern Ireland in relation to which the customs duties payable were in accordance with the Union Common Customs Tariff.

2. The United Kingdom shall provide the information referred to in paragraph 1 on the 15<sup>th</sup> working day of the following month for which the information is provided.

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<sup>(3)</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

<sup>(4)</sup> Regulation (EC) No 638/2004 of the European Parliament and of the Council of 31 March 2004 on Community statistics relating to the trading of goods between Member States and repealing Council Regulation (EEC) No 3330/91 (OJ L102, 7.4.2004, p. 1).

<sup>(5)</sup> Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ L 152, 16.6.2009, p. 23).

3. The information shall be provided using electronic data processing techniques.

4. At the request of the Union representatives referred to in Decision No 6/2020 of the Joint Committee established by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community <sup>(6)</sup> and at least twice per year, the competent authorities of the United Kingdom shall provide information in aggregated and per authorisation form to these representatives on the authorisations granted pursuant to Articles 9 to 12 of this Decision, including numbers of accepted, rejected and revoked authorisations, and the place of establishment of the authorisation holders.

#### Article 15

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

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

2. The Union may notify the United Kingdom within the Joint Committee where the United Kingdom:

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

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

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

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

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

<sup>(6)</sup> Decision No 6/2020 of the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 17 December 2020 providing for the practical working arrangements relating to the exercise of the rights of Union representatives referred to in Article 12(2) of the Protocol on Ireland/Northern Ireland [2020/2250] (OJ L 443, 30.12.2020, p. 16).

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

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

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

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

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

#### Article 16

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

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

#### SECTION 3

### ***Establishment of an enhanced coordination mechanism related to the functioning of the Protocol in the areas of VAT and excise***

#### Article 17

### **Subject matter**

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

*Article 18***Tasks**

The Mechanism shall assist the Joint Committee to:

- (a) provide a forum for the enhanced and timely coordination of the exchange of relevant information and for consultation on future United Kingdom and Union VAT and excise legislation whenever in particular it affects the trade in goods in Northern Ireland due to important changes envisaged in the applicable legislative framework or major difficulties that may arise from separation of treatment of goods and services in the field of VAT;
- (b) provide a forum to assess the potential impact and prepare a smooth implementation of the legislation referred to in point (a) in Northern Ireland. This assessment should particularly look at avoiding undue administrative burdens and unnecessary costs for businesses and tax administrations;
- (c) provide a forum to discuss practical difficulties in relation to the application of existing United Kingdom and Union VAT and excise legislation as applicable by virtue of the Protocol;
- (d) adopt decisions or recommendations in relation to provisions of Union law listed in Annex 3 to the Protocol, while avoiding adverse impact on fiscal fraud risks and any potential distortion of competition in the Union. Such decisions and recommendations shall not affect the level of VAT and excise levied on goods; and
- (e) discuss and adopt any other appropriate measures as necessary to address issues arising from the implementation and application of Article 8 of the Protocol.

*Article 19***Operation**

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

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

2. Meetings of the Mechanism shall be arranged when necessary. The lead experts may informally exchange views between the meetings of the Mechanism and may also meet informally. After each informal meeting, the lead experts shall draw up minutes and send them to the co-chairs of the Specialised Committee and the joint consultative working group established by Article 15 of the Protocol ('the joint consultative working group').

3. The lead experts shall submit a final report to the co-chairs of the Specialised Committee summarising the outcome of the discussion on a particular issue and setting out any recommended action, including any issues on which agreement could not be reached.

4. The lead experts may invite representatives of third parties or other experts to talk on particular matters. They will communicate the names of these experts to the co-chairs of the Specialised Committee.

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

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

*Article 20***Proposals for decisions or recommendations related to this section**

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

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

*Article 21***Review of this section**

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

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

*SECTION 4***Final Provisions***Article 22*

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

*Article 23***Entry into force and application**

1. This Decision shall enter into force on the day following the date of its adoption.
2. Sections 1, 3 and 4 shall apply as of the date of entry into force of this Decision.
3. Articles 9, 11 and 12 of, and Annex III to, this Decision shall apply as from the date of the entry into force of this Decision. As from that date, Articles 5 and 7 of Joint Committee Decision No 4/2020 shall cease to apply. An authorisation granted pursuant to Articles 5 and 7 of Joint Committee Decision No 4/2020 shall remain valid until the date at which the provisions of this Decision, with the exception of Article 7(1)(a)(iii), Articles 9, 11, 12, 13 and Article 15(3), apply, in accordance with paragraph 3 of this Article. Any authorisation granted under Articles 9 and 11 of this Decision will be treated as an authorisation granted under Articles 5 and 7 of Joint Committee Decision No 4/2020 for as long as the other provisions of that Joint Committee Decision No 4/2020 apply.
4. Subject to the second subparagraph, the other provisions of this Decision, with the exception of Article 7(1)(a)(iii), Article 13 and Article 15(3), shall apply as from 30 September 2023, provided that the following declarations have been made within the Joint Committee:
  - (a) a declaration by the Union to the effect that it is satisfied:
    - (i) with the implementation by the United Kingdom of Article 5 of Joint Committee Decision No 6/2020 through the provision of access to information contained in United Kingdom networks, information systems and databases and United Kingdom national modules of Union systems referred to in Annex I to that Joint Committee Decision; and
    - (ii) that all existing XI EORI registrations are correctly issued; and
    - (iii) that the United Kingdom has issued new guidance for parcels in line with the arrangements set out in this Decision; and
    - (iv) that the United Kingdom has issued its unilateral declaration on export procedures for goods exiting Northern Ireland to other parts of the United Kingdom.

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

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

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

- (a) a declaration by the Union to the effect that it is satisfied that the United Kingdom has set up the networks, information systems and databases in relation to the data referred to in Article 141(10)(d)(vii) of Delegated Regulation (EU) 2015/2446 that are to be provided to the United Kingdom competent authority and is satisfied with the implementation by the United Kingdom of Article 5 of Joint Committee Decision No 6/2020 through the provision of access to information contained in these networks, information systems and databases; and
- (b) a declaration by the United Kingdom to the effect that all authorised carriers are able to comply with the obligations set out in Article 13 of this Decision.

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

Done at London, 24 March 2023.

*For the Joint Committee*  
*The Co-chairs*  
Maroš ŠEFČOVIČ  
James CLEVERLY

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## ANNEX I

**Unilateral Declaration by the United Kingdom****Involvement of the institutions of the 1998 Agreement**

1. The United Kingdom will adopt the following procedure to operate the emergency brake mechanism in Article 13(3a) of the Windsor Framework <sup>(1)</sup>. This mechanism will apply in the unique circumstances of this Declaration and is without prejudice to the status of cross-community voting and safeguards in the 1998 Agreement, which apply solely and exclusively to devolved matters.
  - a. The mechanism will operate solely and exclusively in the event that after the date of this declaration, the Northern Ireland Executive has been restored and become operational, including with a First Minister and deputy First Minister in post, and the Northern Ireland Assembly has been in regular session. Thereafter, Members of the Legislative Assembly ('MLAs') wishing to operate the mechanism must be individually and collectively seeking in good faith to fully operate the institutions, including through the nomination of Ministers and support for the normal operation of the Assembly.
  - b. The minimum threshold for the mechanism will operate on the same basis as the separate 'Petition of Concern' process within the 1998 Agreement, as updated through the New Decade, New Approach Agreement in 2020. This means 30 MLAs from at least two parties (and excluding the Speaker and Deputy Speakers) will need to notify the UK Government of their wish that the emergency brake mechanism should be applied.
  - c. When providing notification to the UK Government, MLAs will need to demonstrate, in a detailed and publicly available written explanation:
    - i. that they have met the same requirements as those set out in Annex B of Part 2 of the New Decade, New Approach Agreement, namely that the notification is only being made in the most exceptional circumstances and as a last resort, having used every other available mechanism;
    - ii. that the conditions set out in the third subparagraph of Article 13(3a) of the Windsor Framework are met; and
    - iii. that MLAs have sought prior substantive discussion with the UK Government and within the Northern Ireland Executive to examine all possibilities in relation to the Union act; taken steps to consult businesses, other traders and civic society affected by the relevant Union act; and made all reasonable use of applicable consultation processes provided by the European Union for new Union acts relevant to Northern Ireland.
2. If it accepts that the conditions in paragraph 1(a) and (b) have been met and that the explanation provided under paragraph 1(c) is satisfactory, the United Kingdom will notify the Union in accordance with the first subparagraph of Article 13(3a) of the Windsor Framework.
3. The United Kingdom, following a notification by MLAs, commits to informing the Union without delay.
4. The United Kingdom, following a notification to the Union that the emergency brake has been triggered, commits to intensive consultations in the Joint Committee on the relevant Union act as provided for by Article 13(4) of the Windsor Framework.

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



## ANNEX II

**Application for Authorisation to bring goods into Northern Ireland for end consumers**  
**(referred to in Article 9)**

## Application information

## 1. Supporting documents

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

Document of establishment / proof of a permanent business establishment

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

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

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

## 3. Date and signature of the applicant

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

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

## Details of the applicant

## 4. Applicant

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

Enter the name and address of the person concerned.

## 5. Applicant identification number

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

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

## 6. Legal status of the applicant

The legal status as mentioned in the document of establishment.

## 7. VAT identification number(s)

Where assigned, enter the VAT identification number.

## 8. Business activities

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

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

9. Annual turnover

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

10. Contact person responsible for the application

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

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

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

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

Dates, times, periods and places

12. Date of establishment

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

13. Address of establishment / address of residence

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

14. Place where records are kept

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

15. Place(s) of processing or use

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

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## ANNEX III

**Explanation of conditions referred to in Article 11**

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

## Article 11(1)(b)

1. The criterion laid down in Article 11(1)(b) of this Decision shall be considered to be fulfilled if:
  - (a) there is no decision taken by an administrative or judicial authority concluding that one of the persons described in point (b) has committed, within three years prior to the application, a serious infringement or repeated infringements of customs legislation or taxation rules in relation to their economic activity; and
  - (b) none of the following persons has a record of serious criminal offence in relation to their economic activity and, where applicable, the applicant's economic activity:
    - (i) the applicant,
    - (ii) the employee(s) including any direct representative(s) in charge of the applicant's administration related to the movement of goods under this scheme,
    - (iii) the person(s) in charge of the applicant or exercising control over its management, and
    - (iv) a person acting in their own name and on behalf of the applicant in relation to movement of goods under this scheme.
2. The criterion may nevertheless be considered to be fulfilled where the competent authority considers any infringement to be of minor importance, in relation to the number or size of the related operations, and the competent authority has no doubt as to the good faith of the applicant.
3. Where the person referred to in paragraph 1(b)(iii), other than the applicant is established or has their residence outside the UK, the competent authority shall assess the fulfilment of the criterion referred to on the basis of the records and information that are available to it.
4. Where the applicant has been established for less than three years, the competent authority shall assess the fulfilment of the criterion as regards the applicant on the basis of the records and information that are available to it.

## Article 11(1)(c)

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

5. The applicant has an administrative organisation and internal controls which correspond to the type and size of business, and which is suitable for the management of the flow of goods. Applicants must have internal controls capable of preventing, detecting and correcting errors and of preventing and detecting illegal activities within their organisation.
6. The applicant should demonstrate adequate record keeping in relation to the movement of goods under this scheme. Procedures for protection against loss of information and archiving procedures with respect to keeping of historical records should be demonstrated including the assessment, back-up and protection of records for five years.
7. The management of records should be consistent with the accounting principles applied in the UK.

8. Records on goods movements into Northern Ireland should either be integrated in the accounting system or, when held separately, there should be a possibility to allow for cross checks between records relating to purchases, sales, stock control and movement of goods.
9. The authorised trader shall provide the competent authority with electronic and/or physical access, upon request, to the records referred to in point 8 in a suitable format.
10. The authorised trader is obliged to inform the competent UK authorities whenever compliance difficulties are discovered as well as any factor arising after the decision to grant the authorised trader status which might influence its continuation or content. Internal instructions should be in place to ensure that relevant staff are aware of how to inform the competent authority of such compliance difficulties.
11. Where authorised traders are handling prohibited and restricted goods, there should be appropriate procedures in place for the handling of those goods in accordance with relevant legislation.
12. An authorised trader needs to have evidence relating to their customers to ensure that they can make accurate assessments in respect of goods moved under this scheme. Measures must be in place to ensure that any goods moved under this scheme are only to be sold or used if in accordance with this Joint Committee Decision. The authorised trader will be obliged to maintain an ongoing understanding of the business operations of new and existing clients, sufficient to ensure compliance with the criteria laid down for a trusted trader in this Joint Committee Decision. The following are examples of scenarios in which an authorised trader who is not responsible for the end destination of the goods could move goods under the scheme:
  - (a) a written and signed declaration from the customer stating that the goods will remain in Northern Ireland;
  - (b) evidence that the customer only makes retail sales for final use or end-consumption in the UK from a physical outlet in Northern Ireland;
  - (c) evidence that the customer only sells goods that will be for final use by end-consumers in the UK and are delivered within the UK;
  - (d) commercial contracts and purchase orders showing that goods will be for final use in the UK;
  - (e) evidence that the sale is of a good to be permanently installed within the UK.

Article 11(1)(d)

13. The criterion laid down in Article 11(1)(d) of this Decision shall be considered to be fulfilled where the competent authority checks that the applicant complies in particular with the following:
  - (a) the applicant is not subject to bankruptcy proceedings;
  - (b) during the last three years preceding the submission of the application, the applicant has fulfilled their financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the import or export of goods;
  - (c) the applicant demonstrates on the basis of the records and information available for the last three years preceding the submission of the application that they have sufficient financial standing to meet their obligations and fulfil their commitments having regard to the type and volume of the business activity.
14. If the applicant has been established for less than three years, their financial solvency shall be checked on the basis of records and information that are available.

Article 11(1)(e)

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

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

**Category 1**

The goods referred to as 'category 1 goods' are those goods subject to:

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

**Category 2**

The goods referred to as 'category 2 goods' are those goods subject to:

1. Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors
2. Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC
3. Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products
4. Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste
5. Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008
6. Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein
7. Council Regulation (EEC) No 3254/91 of 4 November 1991 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards
8. Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species
9. Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel
10. Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community
11. Council Directive 83/129/EEC of 28 March 1983 concerning the importation into Member States of skins of certain seal pups and products derived therefrom
12. Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products
13. Directive 2014/28/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses
14. Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles
15. Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors
16. Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons

17. Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment
  18. Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds
  19. Union tariff rate quotas when the quota is not claimed by the importer
  20. Article 47 of Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (Official Controls Regulation), except when the goods are also subject to the Regulation of the European Parliament and of the Council on specific rules relating to the entry into Northern Ireland from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes, as well as non-commercial movements of certain pet animals into Northern Ireland as will be adopted on the basis of the European Commission's legislative proposal (COM(2023) 124 final)
  21. Union acts listed in point 2 of Annex 3 to the Protocol
  22. Union acts listed in point 20 of Annex 2 to the Protocol
  23. Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals
  24. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC
  25. Regulation (EU) 2019/880 of the European Parliament and of the Council of 17 April 2019 on the introduction and the import of cultural goods
  26. Any Union act as applying to and in the United Kingdom in respect of Northern Ireland in accordance with the Protocol which provides for any steps which must be carried out by an economic operator or by a partner competent authority prior to, or when, goods enter the Union, for the purpose of controlling the goods or controlling other formalities. The Union shall inform without delay the United Kingdom where a Union act is of the nature referred to in the first sentence.
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