

## PROTOCOLS

### PROTOCOL RELATING TO THE SOVEREIGN BASE AREAS OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND IN CYPRUS

The Union and the United Kingdom,

RECALLING that the Joint Declaration on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Final Act of the Treaty concerning the Accession of the United Kingdom to the European Communities provided that the arrangements applicable to relations between the European Economic Community and the Sovereign Base Areas will be defined within the context of any agreement between the Community and the Republic of Cyprus,

CONFIRMING that the arrangements applicable to relations between the Union and the Sovereign Base Areas after the withdrawal of the United Kingdom from the Union should continue to be defined within the framework of the Republic of Cyprus' membership of the Union,

TAKING ACCOUNT of the provisions concerning the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia ("the Sovereign Base Areas") set out in the Treaty concerning the Establishment of the Republic of Cyprus and the associated Exchanges of Notes dated 16 August 1960 ("the Treaty of Establishment"),

CONFIRMING that the withdrawal of the United Kingdom from the Union should not affect the rights and obligations of the Republic of Cyprus under Union law or the rights and obligations of the parties to the Treaty of Establishment,

RECALLING that, from the date of accession of the Republic of Cyprus to the Union, Union law applies in the Sovereign Base Areas only to the extent necessary to ensure the implementation of the arrangements set out in Protocol No 3 on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded ("Protocol No 3"),

NOTING the Exchange of Notes between the Government of the United Kingdom and the Government of the Republic of Cyprus concerning the administration of the Sovereign Base Areas, dated 16 August 1960, and the attached Declaration by the United Kingdom Government that one of the main objects to be achieved is the protection of the interests of those resident or working in the Sovereign Base Areas, and considering in this context that those persons should have, to the extent possible, the same treatment as those resident or working in the Republic of Cyprus,

NOTING the commitment of the United Kingdom to preserving the application of the arrangements made pursuant to the Treaty of Establishment whereby the authorities of the Republic of Cyprus administer a wide range of public services in the Sovereign Base Areas, including in the fields of agriculture, customs and taxation,

WHEREAS the Sovereign Base Areas should remain part of the customs territory of the Union after the withdrawal of the United Kingdom from the Union,

NOTING the provisions of the Treaty of Establishment regarding customs arrangements between the Sovereign Base Areas and the Republic of Cyprus and in particular those of Part I of Annex F to that Treaty,

NOTING the commitment of the United Kingdom not to create customs posts or other frontier barriers between the Sovereign Base Areas and the Republic of Cyprus and not to establish commercial or civilian seaports or airports,

DESIRING to determine appropriate arrangements for achieving the objectives of the arrangements set out in Protocol No 3 after the withdrawal of the United Kingdom from the Union,

CONSIDERING that the arrangements set out in this Protocol should ensure the proper implementation and enforcement of the relevant provisions of Union law in relation to the Sovereign Base Areas after the withdrawal of the United Kingdom from the Union,

CONSIDERING that appropriate arrangements need to be laid down as regards the relief and exemptions from duties and taxes that the armed forces of the United Kingdom and associated personnel can maintain after the withdrawal of the United Kingdom from the Union,

RECOGNISING that it is necessary to provide for specific arrangements for the checks on goods and persons crossing the external borders of the Sovereign Base Areas, as well as to provide for the terms under which the relevant provisions of Union law apply to the line between the areas in which the Government of the Republic of Cyprus does not exercise effective control and the Sovereign Base Area of Dhekelia, as currently provided on the basis of the Protocol No 10 on Cyprus annexed to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded ("Protocol No 10"),

RECOGNISING that cooperation between the Republic of Cyprus and the United Kingdom is essential to ensure the effective implementation of the arrangements laid down in this Protocol,

CONSIDERING that on the basis of the arrangements laid down in this Protocol, Union law will apply in relation to the Sovereign Base Areas in certain policy areas of the Union following the withdrawal of the United Kingdom from the Union,

RECOGNISING the unique arrangements relating to persons living and working in the Sovereign Base Areas under the Treaty of Establishment and the 1960 Declaration and the objective of the consistent application of relevant Union law in both the Republic of Cyprus and the Sovereign Base Areas in order to support those arrangements,

NOTING in this regard that through this Protocol the United Kingdom entrusts the Republic of Cyprus, as a Member State of the Union, with responsibility for implementing and enforcing provisions of Union law in the Sovereign Base Areas as provided for in this Protocol,

RECALLING that the Republic of Cyprus is responsible for the implementation and enforcement of Union law in relation to goods destined for or originating in the Sovereign Base Areas that are entering or leaving through a seaport or airport in the Republic of Cyprus,

UNDERLINING that the arrangements set out in this Protocol are without prejudice to Articles 1 and 2 of the Treaty of Establishment and to the positions of the Republic of Cyprus and the United Kingdom thereon,

CONSIDERING that the arrangements laid down in this Protocol should have the sole purpose of regulating the particular situation of the Sovereign Base Areas and should not apply to any other territory or serve as a precedent,

HAVE AGREED UPON the following provisions, which shall be annexed 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 ("Withdrawal Agreement"):

### *Article 1*

#### **General provisions**

1 For the purposes of this Protocol, any reference to the United Kingdom in the applicable provisions of the Withdrawal Agreement shall be understood as referring to the United Kingdom in respect of the Sovereign Base Areas. Titles I, II and III of Part Three and Part Six thereof shall apply without prejudice to the provisions of this Protocol.

2 By way of derogation from Article 4(4) and (5) of the Withdrawal Agreement, the provisions of this Protocol referring to Union law or concepts or provisions thereof shall in their implementation and application be interpreted in conformity with the relevant case law of the Court of Justice of the European Union.

3 Notwithstanding Article 71 of the Withdrawal Agreement, in addition to any provisions of Union law on the protection of personal data applicable to and in the Sovereign Base Areas under this Protocol, Regulation (EU) 2016/679 and Directive (EU) 2016/680 shall apply in respect of personal data processed in the Sovereign Base Areas on the basis of this Protocol.

4 By way of derogation from Article 6(1) of the Withdrawal Agreement, where this Protocol makes reference to a Union act, the reference to that act shall be understood as referring to the act as amended or replaced. This paragraph shall not apply in relation to Article 4(3) and (10) of the Council Regulation (EC) 866/2004<sup>(1)</sup>, to which Article 10(2) shall apply.

5 Where the Union considers, by way of derogation from Articles 7 and 8 of the Withdrawal Agreement, that full or partial access by the United Kingdom, or by the United Kingdom in respect of the Sovereign Base Areas, as the case may be, is strictly necessary to enable the United Kingdom to comply with its obligations under this Protocol, including where such access is necessary because access to the relevant information cannot be facilitated by other practical means, references to Member States and competent authorities of Member States in provisions of Union law made applicable by this Protocol shall be understood as including the United Kingdom or the United Kingdom in respect of the Sovereign Base Areas, as the case may be in relation to access to any network, information system or database established on the basis of Union law.

## Article 2

### Customs territory of the Union

1 The Sovereign Base Areas, taking into account the Treaty of Establishment, shall be part of the customs territory of the Union. For this purpose, the provisions of Union law on customs and the common commercial policy, including provisions of Union law providing for customs controls of specific goods or for specific purposes, shall apply to and in the Sovereign Base Areas.

2 Goods produced by producers in the Sovereign Base Areas and placed on the market in the customs territory of the Union shall be considered to be goods in free circulation.

3 All goods intended for use in the Sovereign Base Areas shall enter the island of Cyprus through the civilian airports and seaports of the Republic of Cyprus, and all customs formalities, customs controls and collection of import duties related to them shall be carried out by the authorities of the Republic of Cyprus.

4 All goods intended for export shall exit the island of Cyprus through the civilian airports and seaports of the Republic of Cyprus and all customs export formalities and customs controls related to them shall be carried out by the authorities of the Republic of Cyprus.

5 Customs controls on documents and equipment referred to in paragraph 3 of section 11 of Annex C to the Treaty of Establishment shall be carried out in accordance with the provisions of that section.

6 By way of derogation from paragraphs 3 and 4, and with the sole purpose of supporting the operation of the Sovereign Base Areas as military bases, having regard to the Treaty of Establishment, the following provisions shall apply:

- a the following goods may enter or leave the island of Cyprus through a seaport or airport in the Sovereign Base Areas, subject to all customs formalities, customs controls and collection of duties related to those goods being carried out by the authorities of the Sovereign Base Areas:
  - (i) goods imported or exported for official or military purposes;
  - (ii) goods imported or exported in personal baggage, exclusively for their personal use, by or on behalf of United Kingdom personnel, as well as by other persons travelling on defence or official business;
- b parcels which are sent or received by United Kingdom personnel or their dependants and transported by the British Forces Post Office may enter or leave the island of Cyprus through a port or airport in the Sovereign Base Areas under the following conditions:
  - (i) incoming parcels addressed to United Kingdom personnel or their dependants shall be transported in a sealed container and conveyed following their arrival to a customs post in the Republic of Cyprus so that the completion of customs formalities, controls and the collection of import duties related to those products can be carried out by the authorities of the Republic of Cyprus;
  - (ii) outgoing parcels sent by United Kingdom personnel or their dependants shall be subject to customs control by the authorities of the Sovereign Base Areas.

For the purposes of this paragraph, "United Kingdom personnel or their dependants" means the persons defined in paragraph 1 of Part I of Annex B to the Treaty of Establishment.

The United Kingdom shall share relevant information with the Republic of Cyprus with a view to cooperating closely to prevent the evasion of duties and taxes, including smuggling.

7 Articles 34, 35 and 36 TFEU and other provisions of Union law on goods, in particular measures adopted pursuant to Article 114 TFEU, shall apply to and in the Sovereign Base Areas.

8 Goods arriving from the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control shall cross the line between those areas and the Eastern Sovereign Base Area in accordance with Regulation (EC) No 866/2004.

Without prejudice to Article 6 of this Protocol, the United Kingdom shall be responsible for the implementation and enforcement of Regulation (EC) No 866/2004 in relation to the Sovereign Base Areas in accordance with the provisions of that Regulation. The United Kingdom shall invite the authorities of the Republic of Cyprus to conduct any necessary veterinary, phytosanitary and food safety checks required under that Regulation.

9 The United Kingdom shall be responsible for the implementation and enforcement of the provisions of Union law referred to in paragraph 1 in relation to goods arriving in or leaving the Sovereign Base Areas under paragraph 6.

The United Kingdom shall also be responsible for issuing any licences, authorisations or certificates which may be required in respect of goods covered by paragraph 1 of section 5 of Annex F to the Treaty of Establishment.

10 The Republic of Cyprus shall be responsible for the implementation and enforcement in the Sovereign Base Areas of the provisions of Union law referred to in paragraph 7.

### *Article 3*

#### **Taxation**

1 The provisions of Union law on turnover taxes, excise duties and other forms of indirect taxation adopted pursuant to Article 113 TFEU shall apply to and in the Sovereign Base Areas.

2 Transactions originating in or intended for the Sovereign Base Areas shall be treated as transactions originating in or intended for the Republic of Cyprus for the purposes of value added tax (VAT), excise duties and other forms of indirect taxation.

3 The Republic of Cyprus shall be responsible for the implementation and the enforcement of the provisions of Union law referred to in this Article in the Sovereign Base Areas, including for the collection of duties and taxes payable by civil natural or legal persons residing or established in the Sovereign Base Areas.

### *Article 4*

#### **Duty relief**

1 Goods or services received, acquired or imported for use by the armed forces of the United Kingdom or the civilian staff accompanying them, or for supplying their messes or canteens, shall be exempted from customs duties, VAT and excise duties, provided that the persons concerned are eligible for such exemptions in accordance with the Treaty of Establishment. For this purpose, the United Kingdom shall issue exemption certificates upon approval by the Republic of Cyprus in relation to the goods covered by Article 2(3).

2 Any duties that may be collected by the United Kingdom authorities in the Sovereign Base Areas as a result of sale of the goods referred to in paragraph 1 shall be remitted to the authorities of the Republic of Cyprus.

#### *Article 5*

##### **Social security**

With a view to the continued protection of the rights of persons resident or employed in the territory of the Sovereign Base Areas, the United Kingdom and the Republic of Cyprus shall make further arrangements, where necessary, to ensure the proper implementation of Article 4 of Protocol No 3 after the end of the transition period.

#### *Article 6*

##### **Agriculture, fisheries and veterinary and phytosanitary rules**

The provisions of Union law on agriculture and fisheries in Title III of Part Three TFEU and acts adopted pursuant to those provisions, as well as the veterinary and phytosanitary rules adopted in particular pursuant to point (b) of Article 168(4) TFEU, shall apply to and in the Sovereign Base Areas.

The Republic of Cyprus shall be responsible for the implementation and enforcement of the provisions of Union law referred to in the first paragraph in the Sovereign Base Areas.

#### *Article 7*

##### **Checks on persons crossing the external borders of the Sovereign Base Areas**

1 For the purposes of this Article, "external borders of the Sovereign Base Areas" means the sea boundaries and the airports and seaports of the Sovereign Base Areas, but not their land and sea boundaries with the Republic of Cyprus. Subject to paragraph 6, for the purposes of paragraphs 2 and 7, "crossing points" means any crossing point authorised by the authorities of the United Kingdom for the crossing of the external borders of the Sovereign Base Areas.

2 The United Kingdom shall carry out checks on persons crossing the external borders of the Sovereign Base Areas. Those checks shall include the verification of travel documents. All persons shall undergo at least one such check in order to establish their identity. The United Kingdom shall only allow the external borders of the Sovereign Base Areas to be crossed at crossing points.

3 Nationals of third countries and nationals of the United Kingdom shall only be permitted to cross the external borders of the Sovereign Base Areas if they fulfil the following conditions:

- a they possess a valid travel document;
- b they are in possession of a valid visa for the Republic of Cyprus, if required;
- c they are engaged in a defence-related activity or are family members of a person who is engaged in such activity; and
- d they are not a threat to national security.

The condition specified in point (c) shall not apply to United Kingdom nationals crossing the boundary referred to in paragraph 6.

The United Kingdom may only derogate from the conditions referred to in the first subparagraph on humanitarian grounds, on grounds of national interest or in order to comply with its international obligations.

Members of a force, civilian component and dependants, as defined in Annex C to the Treaty of Establishment, shall be treated as not requiring a visa for the Republic of Cyprus.

4 Any applicant for asylum who first entered the island of Cyprus from outside the Union by one of the Sovereign Base Areas shall be taken back or readmitted to the Sovereign Base Areas at the request of the Member State in whose territory the applicant is present.

The Republic of Cyprus shall continue to cooperate with the United Kingdom with a view to devising practical ways and means of respecting the rights and satisfying the needs of asylum seekers and illegal migrants in the Sovereign Base Areas, bearing in mind humanitarian considerations and in compliance with the relevant Sovereign Base Area Administration legislation.

5 Without prejudice to paragraph 6, there shall be no checks on persons at the land and sea boundaries between the Sovereign Base Areas and the Republic of Cyprus.

6 The boundary between the Eastern Sovereign Base Area and those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control shall be treated as part of the external borders of the Sovereign Base Areas for the purposes of this Article for the duration of the suspension of the application of the *acquis* according to Article 1 of Protocol No 10. That boundary may only be crossed at the crossing points of Strovilia and Pergamos. With the prior agreement of and in cooperation with the United Kingdom authorities, the Republic of Cyprus may take further measures to combat illegal migration with respect to persons who have crossed that boundary.

7 The United Kingdom authorities shall use mobile units to carry out external border surveillance between border crossing points and at crossing points outside of normal opening hours at the external borders of the Sovereign Base Areas and at the boundary between the Sovereign Base Area of Dhekelia and those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control. That surveillance shall be carried out in such a way as to discourage persons from circumventing the checks at crossing points. The United Kingdom authorities shall deploy enough suitably qualified officers to carry out those checks and surveillance.

8 The United Kingdom authorities shall maintain constant close cooperation with the authorities of the Republic of Cyprus with a view to the effective implementation of the checks and surveillance referred to in paragraphs 6 and 7.

#### *Article 8*

### **Cooperation**

The Republic of Cyprus and the United Kingdom shall cooperate to ensure the effective implementation of this Protocol, in particular with a view to countering fraud and any other illegal activities that affect the financial interests of the Union or of the United Kingdom. The Republic of Cyprus and the United Kingdom may make further arrangements concerning the implementation of any of the provisions of this Protocol. The Republic of Cyprus shall inform the European Commission of any such arrangements before their entry into force.

## *Article 9*

### **Specialised Committee**

1 The Specialised Committee on issues related to the implementation of the Protocol related to the Sovereign Base Areas in Cyprus established by Article 165 of the Withdrawal Agreement ("Specialised Committee") shall:

- a facilitate the implementation and application of this Protocol;
- b discuss any point of relevance to this Protocol giving rise to a difficulty and raised by the Union or the United Kingdom; and
- c make recommendations to the Joint Committee as regards the functioning of this Protocol, in particular proposals for amendments of the references to Union law in this Protocol.

2 The European Commission shall inform the Specialised Committee of any report submitted under Article 11 of Regulation (EC) No 866/2004 and shall consult the United Kingdom in relation to any Commission proposal to adopt an act amending or replacing that Regulation if the Sovereign Base Areas are affected.

## *Article 10*

### **Joint Committee**

1 The Joint Committee shall amend any references to Union law in this Protocol on a recommendation from the Specialised Committee.

2 If it considers it is necessary in order to maintain the good functioning of this Protocol, the Joint Committee may, on a recommendation from the Specialised Committee, take any decision necessary to replace in relation to this Protocol the provisions referred to in Article 1(4).

3 The Joint Committee may, on a recommendation from the Specialised Committee, amend Article 7(6) in relation to the crossing points identified in that provision.

## *Article 11*

### **Operation of Article 6 of Protocol No 3 during the transition period**

Notwithstanding Article 127(1) of the Withdrawal Agreement, any measures adopted during the transition period under Article 6 of Protocol No 3 shall not apply to or in the Sovereign Base Areas.

## *Article 12*

### **Supervision and enforcement**

1 In respect of the Sovereign Base Areas and in relation to natural and legal persons residing or established in the territory of those Areas, the institutions, bodies, offices and agencies of the Union shall have the powers conferred upon them by Union law in relation to this Protocol and provisions of Union law made applicable by it. In particular, the Court of Justice of the European Union shall have jurisdiction as provided for in the Treaties in this respect.



2 Acts of the institutions, bodies, offices and agencies adopted in accordance with paragraph 1 shall produce the same legal effects with regard to and in the Sovereign Base Areas as those which they produce within the Union and its Member States.

### *Article 13*

#### **Responsibility for implementation**

1 Unless otherwise provided in this Protocol, the United Kingdom shall be responsible for the implementation and enforcement of this Protocol in the Sovereign Base Areas. Notwithstanding paragraph 3, the competent authorities of the United Kingdom shall enact the domestic legislation necessary to give effect to this Protocol in the Sovereign Base Areas.

2 The United Kingdom shall retain the exclusive right to implement and enforce this Protocol in respect of its own authorities or on any immovable property owned or occupied by the Ministry of Defence of the United Kingdom, as well as any coercive enforcement power requiring the power to enter a dwelling house or a power of arrest. The United Kingdom shall retain other coercive enforcement powers unless otherwise provided in the legislation referred to in paragraph 1.

3 The Republic of Cyprus is entrusted with the responsibility for implementing and enforcing this Protocol in the Sovereign Base Areas in accordance with Article 2(10) and Articles 3 and 6.

- (1) Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol No 10 of the Act of Accession ([OJ L 161](#), [30.4.2004](#), p. 128).