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Summary of the European Commission Draft Withdrawal Agreement

The European Commission published the [Draft Withdrawal Agreement](#) on the withdrawal of the United Kingdom from the European Union and the European Atomic Energy Community. This draft will be discussed over the coming weeks by the EU27 Council and the Brexit Steering Group of the European Parliament before transmission to the UK authorities for negotiation. We have highlighted below the key points with relevance to the agriculture and horticulture sectors.

General points

- Implementation of the Agreement: the provisions of this Agreement referring to Union law shall in their implementation and application be interpreted in conformity with the relevant case law of the Court of Justice of the European Union handed down before the end of the transition period
- UK's participation in EU's activities: the UK shall be excluded from nomination, appointment or election of members of the institutions, bodies, offices and agencies of the Union, as well as the participation in the decision-making and the attendance in the meetings of the institutions
- Access to information: At the end of the transition period, the United Kingdom shall cease to be entitled to access any network, any information system, and any database established on the basis of Union law.

Citizens' rights

- Preserve residence rights, right of exit and of entry for Union citizens, United Kingdom nationals, and their respective family members
- Union citizens, United Kingdom nationals and their respective family members who have resided legally in accordance with Union law for a continuous period of five years in the host State shall have the right of permanent residence in the host State. Periods of legal residence or work before and after the end of the transition period shall be included in the calculation of the qualifying period necessary for acquisition of the right of permanent residence
- The residence document shall be issued free of charge or for a charge not exceeding that imposed on citizens or nationals for the issuing of similar documents

Separation provisions

- In terms of the continued circulation of goods placed on the market before the end of the transition period, this is allowed until the good reaches its end-user. However, for live animals, germinal products and other animal products (including food and feed of animal origin and animal by-products) a list of provisions of Union law shall apply, provided that the date of departure was before the end of the transition period
- As to Geographical Indications (GIs), where a geographical indication or designation of origin is protected in the EU on the last day of the transition period, those entitled to use the geographical indication or the designation of origin shall, as from the end of the transition period, be entitled to use a right in the United Kingdom granted under the law of the United Kingdom which provides for at least the same level of protection

Union judicial and administrative procedures

- If the European Commission or a Member State considers that the United Kingdom has failed to fulfil an obligation under the Treaties before the end of the transition period, it may bring the matter before the Court of Justice of the European Union
- Judgments and orders of the Court of Justice of the European Union handed down before the end of the transition period as well as those handed down after the end of the transition period in pending cases brought by the UK or against the UK before the end of the transition period, shall have binding force in their entirety on and in the United Kingdom

Transition

- There will be a transition period, which shall start on the date of entry into force of the Agreement and end on 31 December 2020
- Union law shall be applicable to and in the United Kingdom during the transition period apart from the UK's opt-outs that currently don't apply (e.g. Protocol on the Schengen acquis)
- During the transition period, the parliament of the United Kingdom shall not be considered to be a national parliament of a Member State. Equally, the Bank of England shall not be considered to be a national central bank of a Member State
- During the transition period, representatives or experts of the United Kingdom, or experts designated by the United Kingdom, may, upon invitation and on a case-by-case basis, exceptionally attend meetings or parts of meetings of the committees of Commission expert groups if the discussion concerns individual acts to be addressed during the transition period to the United Kingdom and/or the presence of the United Kingdom is necessary and in the interest of the Union, in particular for the effective implementation of Union law during the transition period. During such meetings or parts of meetings, the representatives or experts of the United

Kingdom or experts designated by it shall have no voting rights and their presence shall be limited to the specific agenda items

- During the transition period, the United Kingdom shall not act as leading authority for risk assessments, examinations, approvals and authorisation procedures provided for in Union law
- During the transition period, the United Kingdom shall be bound by the obligations stemming from the international agreements concluded by the Union but representatives of the United Kingdom shall not participate in the work of any bodies set up by international agreements concluded by the Union
- During the transition period, the United Kingdom may not become bound by international agreements entered into in its own capacity in the areas of exclusive competence of the Union, unless authorised to do so by the Union
- During the transition period the Court of Justice of the European Union shall have jurisdiction as provided for in the Treaties

Financial provisions

- For the years 2019 and 2020, the United Kingdom shall contribute to and participate in the implementation of the Union budgets
- The United Kingdom shall be liable to the Union for its share of the budgetary commitments of the Union budget and of the budgets of the Union decentralised agencies outstanding on 31 December 2020
- The Union shall calculate the amount of commitments and communicate that amount to the United Kingdom by 31 March of each year
- The European Central Bank shall on behalf of the Union reimburse to the Bank of England the paid-in capital provided by it
- The United Kingdom shall remain liable for the financial operations approved by the European Investment Bank before the date of entry into force of the Agreement

Institutional provisions

- A Joint Committee is established, comprising representatives of the Union and of the United Kingdom. The Joint Committee shall be responsible for the implementation and application of the Agreement
- The Union or the United Kingdom may refer to the Joint Committee any issue relating to the implementation, application and interpretation of the Agreement
- The Joint Committee shall have the power to adopt decisions in respect of all matters for which the Agreement so provides and make appropriate recommendations to the Union and the

United Kingdom. The decisions shall be binding on the Union and the United Kingdom. The Joint Committee shall adopt its decisions and make its recommendations by mutual consent

Protocol on Ireland/Northern Ireland

- The United Kingdom shall ensure that the Common Travel Area and associated rights and privileges can continue to operate without affecting the obligations of Ireland under Union law, in particular with respect to free movement for Union citizens and their family members, irrespective of their nationality, to, from and within Ireland
- A common regulatory area comprising the Union and the United Kingdom in respect of Northern Ireland is established. The common regulatory area shall constitute an area without internal borders in which the free movement of goods is ensured and North-South cooperation protected
- The territory of Northern Ireland, excluding the territorial waters of the United Kingdom (the "territory of Northern Ireland"), shall be considered to be part of the customs territory of the Union
- The provisions of Union law on sanitary and phytosanitary rules and on the production and marketing of agricultural and fisheries products shall apply to and in the United Kingdom in respect of Northern Ireland
- The provisions of Union law for environmental protection concerning the control of the import into, export out of, release into, or transport within the Union of substances or material, or plant or animal species shall apply to and in the United Kingdom in respect of Northern Ireland
- The provisions of Union law on aids granted by States shall apply to the United Kingdom in respect of Northern Ireland
- If the application of this Protocol leads to serious economic, societal or environmental difficulties liable to persist, the Union or the United Kingdom may unilaterally take appropriate measures. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation