BREXIT & CROSS-BORDER PERSONAL INJURY

A presentation for APIL

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Article 288 of the Treaty on the Functioning of the European Union, "*THE LEGAL ACTS OF THE UNION Article 288 …*

> *To exercise the Union's competences, the institutions shall adopt regulations, directives, decisions, recommendations and opinions.*
>
> *A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.*
>
> *A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.*
>
> *A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.*
>
> *Recommendations and opinions shall have no binding force*."

In ***Bulmer v Bollinger*** [1974] Ch. 401 Lord Denning referred (at 418F) to the incoming tide of EU law, "… *it flows into the estuaries and up the rivers. It cannot be held back, Parliament has decreed that the Treaty is henceforward to be part of our law. It is equal in force to any statute*."

I. Introduction: "*Firing the starting gun*"

1. This paper is provided to accompany a 35 – 40 minute power-point presentation.
2. It summarises the options that might be considered and exercised (and which might yet materialise) as the UK Government seeks to implement the June 2016 Referendum decision.
3. It is acknowledged that this remains a necessarily speculative exercise.
4. The starting point is Article 50 of the Lisbon Treaty; this does not make particularly happy reading from the UK Government's perspective:

> "*1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.*
>
> *2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State,*

setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49."

5. During the two year period that Article 50(3) mandates, there is likely to be little direct impact on cross-border personal injury litigation in this jurisdiction (save for a rising sense of anxiety about what might happen after two years + the transition period (see below) have elapsed). There is now some detail as to what will happen during the transition period as a result of the Withdrawal Agreement of 19 March 2018 (considered below), although – famously – a number of matters remain unclear or undecided even during the transition period.
6. The UK Government's final preferred model remains unclear, although the "*Great Repeal Act*" will, it seems, ultimately contain all of the ***Acquis Communautaire***: being, the accumulated body of European Union (EU) law and obligations from 1958 to the present day comprising all the EU's treaties and laws (directives, regulations, decisions), declarations and resolutions, international agreements and the judgments of the Court of Justice.

7. Accordingly, the EU Withdrawal Bill (as originally presented to Parliament) provides as follows:

Repeal of the ECA

1 Repeal of the European Communities Act 1972

The European Communities Act 1972 is repealed on exit day.

Retention of existing EU law

2 Saving for EU-derived domestic legislation

(1) EU-derived domestic legislation, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law on and after exit day.

(2) In this section "EU-derived domestic legislation" means any enactment so far as—

(a) made under section 2(2) of, or paragraph 1A of Schedule 2 to, the European Communities Act 1972,

(b) passed or made, or operating, for a purpose mentioned in section 2(2)(a) or (b) of that Act,

(c) relating to anything—

(i) which falls within paragraph (a) or (b), or

(ii) to which section 3(1) or 4(1) applies, or

(d) relating otherwise to the EU or the EEA,

but does not include any enactment contained in the European Communities Act 1972.

(3) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).

3 Incorporation of direct EU legislation

(1) Direct EU legislation, so far as operative immediately before exit day, forms part of domestic law on and after exit day.

(2) In this Act "direct EU legislation" means—

(a) any EU regulation, EU decision or EU tertiary legislation, as it has effect in EU law immediately before exit day and so far as—

(i) it is not an exempt EU instrument (for which see section 14(1) and Schedule 6),

(ii) it is not an EU decision addressed only to a member State other than the United Kingdom, and

(iii) its effect is not reproduced in an enactment to which section 2(1) applies,

(b) any Annex to the EEA agreement, as it has effect in EU law immediately before exit day and so far as—

(i) it refers to, or contains adaptations of, anything falling within paragraph (a), and

(ii) its effect is not reproduced in an enactment to which section 2(1) applies, or

(c) Protocol 1 to the EEA agreement (which contains horizontal adaptations that apply in relation to EU instruments referred to in the Annexes to that agreement), as it has effect in EU law immediately before exit day.

(3) For the purposes of this Act, any direct EU legislation is operative immediately before exit day if—

(a) in the case of anything which comes into force at a particular time and is stated to apply from a later time, it is in force and applies immediately before exit day,

(b) in the case of a decision which specifies to whom it is addressed, it has been notified to that person before exit day, and

(c) in any other case, it is in force immediately before exit day.

(4) This section—

(a) brings into domestic law any direct EU legislation only in the form of the English language version of that legislation, and

(b) does not apply to any such legislation for which there is no such version,

but paragraph (a) does not affect the use of the other language versions of that legislation for the purposes of interpreting it.

(5) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).

4 Saving for rights etc. under section 2(1) of the ECA

(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which, immediately before exit day—

(a) are recognised and available in domestic law by virtue of section 2(1) of the European Communities Act 1972, and

(b) are enforced, allowed and followed accordingly,

continue on and after exit day to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly).

(2) Subsection (1) does not apply to any rights, powers, liabilities, obligations, restrictions, remedies or procedures so far as they—

(a) form part of domestic law by virtue of section 3, or

(b) arise under an EU directive (including as applied by the EEA agreement) and are not of a kind recognised by the European Court or

any court or tribunal in the United Kingdom in a case decided before exit day (whether or not as an essential part of the decision in the case).

(3) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).

5 Exceptions to savings and incorporation

(1) The principle of the supremacy of EU law does not apply to any enactment or rule of law passed or made on or after exit day.

(2) Accordingly, the principle of the supremacy of EU law continues to apply on or after exit day so far as relevant to the interpretation, disapplication or quashing of any enactment or rule of law passed or made before exit day.

(3) Subsection (1) does not prevent the principle of the supremacy of EU law from applying to a modification made on or after exit day of any enactment or rule of law passed or made before exit day if the application of the principle is consistent with the intention of the modification.

(4) The Charter of Fundamental Rights is not part of domestic law on or after exit day.

(5) Subsection (4) does not affect the retention in domestic law on or after exit day in accordance with this Act of any fundamental rights or principles which exist irrespective of the Charter (and references to the Charter in any case law are, so far as necessary for this purpose, to be read as if they were references to any corresponding retained fundamental rights or principles).

(6) Schedule 1 (which makes further provision about exceptions to savings and incorporation) has effect.

6 Interpretation of retained EU law

(1) A court or tribunal—

(a) is not bound by any principles laid down, or any decisions made, on or after exit day by the European Court, and

(b) cannot refer any matter to the European Court on or after exit day.

(2) A court or tribunal need not have regard to anything done on or after exit day by the European Court, another EU entity or the EU but may do so if it considers it appropriate to do so.

(3) Any question as to the validity, meaning or effect of any retained EU law is to be decided, so far as that law is unmodified on or after exit day and so far as they are relevant to it—

(a) in accordance with any retained case law and any retained general principles of EU law, and

(b) having regard (among other things) to the limits, immediately before exit day, of EU competences.

(4) But—

(a) the Supreme Court is not bound by any retained EU case law,

(b) the High Court of Justiciary is not bound by any retained EU case law when—

(i) sitting as a court of appeal otherwise than in relation to a compatibility issue (within the meaning given by section 288ZA(2) of the Criminal Procedure (Scotland) Act 1995) or a devolution issue (within the meaning given by paragraph 1 of Schedule 6 to the Scotland Act 1998), or

(ii) sitting on a reference under section 123(1) of the Criminal Procedure (Scotland) Act 1995, and

(c) no court or tribunal is bound by any retained domestic case law that it would not otherwise be bound by.

(5) In deciding whether to depart from any retained EU case law, the Supreme Court or the High Court of Justiciary must apply the same test as it would apply in deciding whether to depart from its own case law.

(6) Subsection (3) does not prevent the validity, meaning or effect of any retained EU law which has been modified on or after exit day from being decided as provided for in that subsection if doing so is consistent with the intention of the modifications.

(7) In this Act—

"retained case law" means—

(a) retained domestic case law, and

(b) retained EU case law;

"retained domestic case law" means any principles laid down by, and any decisions of, a court or tribunal in the United Kingdom, as they have effect immediately before exit day and so far as they—

(a) relate to anything to which section 2, 3 or 4 applies, and

(b) are not excluded by section 5 or Schedule 1,

(as those principles and decisions are modified by or under this Act or by other domestic law from time to time);

"retained EU case law" means any principles laid down by, and any decisions of, the European Court, as they have effect in EU law immediately before exit day and so far as they—

(a) relate to anything to which section 2, 3 or 4 applies, and

(b) 35are not excluded by section 5 or Schedule 1,

(as those principles and decisions are modified by or under this Act or by other domestic law from time to time);

"retained EU law" means anything which, on or after exit day, continues to be, or forms part of, domestic law by virtue of section 2, 3 or 4 or subsection (3) or (6) above (as that body of law is added to or otherwise modified by or under this Act or by other domestic law from time to time);

> "retained general principles of EU law" means the general principles of EU law, as they have effect in EU law immediately before exit day and so far as they—
>
> (a) relate to anything to which section 2, 3 or 4 applies, and
>
> (b) are not excluded by section 5 or Schedule 1,
>
> (as those principles are modified by or under this Act or by other domestic law from time to time).

8. The Bill completed its third reading in the House of Lords (where a number of controversial amendments were inserted and the Government defeated) on 16 May 2018. The Bill now returns to the Commons for consideration of the amendments: "*ping pong*".

II. Jurisdiction

9. At present, there are – broadly – two regimes: (i) the domicile of the Defendant is critical to the recast Brussels I Regulation No 1215/2012 (for personal injury claims arising out of accidents within the territorial boundaries of the EU); (ii) there is a different regime for the rest of the world (now contained in CPR Part 6, Practice Direction B). It is clear from recent CJEU case law that never the twain shall meet! – see, for example, Case C-281/02 ***Owusu v Jackson*** [2005] 1 QB 805 (a reference to the CJEU by the Court of Appeal). Recent English case law also emphasises the differences between the European and English jurisdictional regimes: see, ***Brownlie v Four Seasons Holdings Inc.*** [2018] 1 WLR 192 (SC). How is the UK ultimately going to negotiate the significant differences between (i) and (ii) now that withdrawal (from the EU) is looming?
10. The options would appear to be as follows:
    a. Recast Brussels I (1215/2012) is a Regulation, rather than a Directive and this distinction is significant;
    b. Recast Brussels I depends on reciprocity – what if this no longer exists?
    c. Can we agree to retain recast Brussels I with the other EU Member States (because it is in everyone's interests?)
    d. Default to the old Brussels Convention?
    e. What about the continuing role of the CJEU in the interpretation of recast Brussels I? (see, the EU Withdrawal Bill in its original formulation viz. "*A*

court or tribunal need not have regard to anything done on or after exit day by the European Court, another EU entity or the EU but may do so if it considers it appropriate to do so.")

f. Can the UK opt-in to the (similar-ish) Lugano Convention and would it wish to do so in any event?

g. Bilateral or multilateral jurisdictional treaties with other EU Member States?

h. Default position: old-style rules in CPR Part 6 and *forum non conveniens*?

III. ***Brownlie v Four Seasons*** **demonstrates some of the difficulties**

11. This appeal ([2018] 1 WLR 192 (SC)) arose out of a fatal road traffic accident in Egypt. The English domiciled Claimant brought proceedings against the Canadian company which, she alleged, was responsible for selling the excursion (supplied locally in Egypt) to her later husband and other members of the family. A number of complex jurisdictional issues arose in respect of the Claimant's claim in tort and contract (pursued against the Defendant in the alternative).

12. As to the tort claim, the Defendant's primary argument was that the rules in CPR Part 6 should be aligned with the rules on special jurisdiction contained in what is now Article 5(3) of the Brussels I Regulation (as recast), the Claimant/Respondent argued to the contrary on the following basis:

    a. Whatever the history/genesis of what is now CPR Part 6, PD 6B, para 3.1(9)(a), the wording of CPR Part 6, PD 6B, para 3.1(9)(a) is quite different to the wording of Article 5(3). In order to give effect to the Defendant/Appellant's submissions new words would need to be added to CPR Part 6, PD 6B, para 3.1(9)(a): Haddon-Cave J rejected (in ***Wink v Croatia …DD*** [2013] EWHC 1118 (QB), para 35) any suggestion that such words should be added;

    b. It is simply impossible to "*align*" the jurisdictional gateway tests contained in CPR Part 6, PD 6B, para 3.1(9)(a) and Article 5(3) because the latter provision contains no *forum conveniens* discretion (a proposition confirmed by ***Owusu v Jackson*** Case C-281/02 [2005] 1 QB 805 (CJEU)). The two jurisdictional tests (for non-European and European claims) are differently worded and differently structured and, accordingly, there cannot be alignment of the kind for which the Defendant/Appellant contends. In this regard, Haddon-Cave J

stated as follows (at para 41 of his judgment in ***Wink***), "*The case law of the Court of Justice ("CJEU") on Article 5(3) of the Brussels Convention/Brussels I Regulation is not relevant to the construction of Ground 9(a) because the two schemes are fundamentally different in structure and policy. The EU rules seek certainty at the price of inflexibility: thus forum conveniens arguments are not permitted (see Owusu v Jackson [2005] ECR I-01383). By contrast, in respect of non-Regulation countries, the common law rules adopt a more flexible legal framework which admits forum conveniens and makes the assumption of jurisdiction discretionary.*"

13. With an important caveat (as to damages for loss of dependency), the Defendant's arguments, at least as to "*damage sustained within the jurisdiction*", prevailed in the Court of Appeal. The Defendant's arguments failed, *obiter*, in the Supreme Court. There remain very substantial differences between the EU and non-EU/common law jurisdictional rules as they are both worded and, in practice, applied in England and Wales.

IV. ***Odenbreit*** **and** ***Thwaites*** **claims: large volume cross-border PI work going, going … ?**

14. While the English Court looks to the applicable local law (the law of the place where the accident occurred) in order to determine whether there is a direct right of action against the foreign (EU) Motor or Public Liability Insurer (see, ***Mapfre & Another v Keefe*** [2016] 1 WLR 905 (paras 39 – 41 *per* Gloster LJ) (CA),[1] it is the recast Brussels I Regulation (as interpreted by the CJEU in ***Odenbreit*** in the light of the EU Motor Insurance Directives) that provides the English Court with jurisdiction.
15. Accordingly, the continuing availability (or otherwise) of this very important jurisdictional option will likely follow the fate of the recast Brussels I Regulation itself as the UK hurtles towards and beyond February/March 2019.

[1] Supreme Court hearing on 7 March 2017 and now – somewhat ironically (in respect of timing) – the subject of a reference to the CJEU.

V. Applicable law

16. Again, the position remains uncertain. At present, we have the Rome II Regulation for claims in tort and Rome I for claims in contract. The end of Rome I might be mitigated by appropriately drafted choice of law clauses, but what of Rome II? Is the UK Government ultimately prepared to default to use of the Private International Law (Miscellaneous Provisions) Act 1995 and, if it does so, will the English Courts be able to escape the influence of Article 4 of the Rome II Regulation and is it, in any event, desirable that they should seek to do so?
17. Is it likely that Rome I and Rome II will simply be transposed into domestic law via the Great Repeal Bill?

VI. Package Travel and a new set of Regulations

18. The latest Package Travel Directive[2] mandated a new, and reinforced, model of consumer protection in the event of insolvency (in particular).
19. In a October 2016 paper – "*Modernising Consumer Protection in the Package Travel Sector: Consultation on ATOL Changes*" – the DfT stated as follows:

> "*1 This consultation is part of the Government's programme of reform for the Air Travel Organisers' Licencing (ATOL) scheme. Since the 1970s ATOL has provided effective protection to holiday-makers, ensuring that they can complete their holiday or obtain a refund in the rare circumstances that a travel company fails. The scheme protects over 20 million holiday-makers each year, and it has been the key way in which the UK implements the EU Package Travel Directive (PTD 1990) for package holidays that include a flight.*
>
> *2 We have already taken steps to update the ATOL scheme, and bring it in line with modern trade practices. In 2012, we worked with the Civil Aviation Authority (CAA) to introduce the "Flight-Plus" category, ATOL Certificates, and Agency Agreements in the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012 ("2012 Regulations") . We believe these interventions have had a positive impact by extending consumer protection, levelling the playing field between businesses and improving clarity for all.*

[2] Directive (EU) 2015/2302.

3 We are now considering further reforms, to build upon these changes and make sure that ATOL keeps pace with a changing travel market. In particular, a new EU Directive on package travel and linked travel arrangements1 ("PTD 2015"), has been introduced to bring similar, but further reaching improvements to consumer protection across Europe. This will need to be implemented across EU Member States by January 2018, and brought into force six months later.

4 The UK Government has supported the rationale for updating the PTD, in order to bring greater clarity on what constitutes a package holiday and to harmonise protection. Overall, the new Directive has the potential to provide a greater level of protection to UK consumers, whether they purchase from a company established in the UK or overseas. The amendments in PTD 2015 will also help to bring a level playing field for companies, whether they operate on the high street or online.

5 While our future relationship with the EU is still to be determined, the Prime Minister has announced that the UK will continue to be a full Member of the EU until exit negotiations are concluded. This means that all the rights remain in place, and our obligation to transpose EU law, including the PTD 2015, will remain at this time."

20. Following a period of domestic consultation we now have draft legislation (at the time of writing, not yet made as a statutory instrument): the Package Travel and Linked Travel Arrangements Regulations 2018 (expressed as coming into force on 1 July 2018 and revoking the Package Travel etc. Regulations 1992).[3] The explanatory note to these Regulations provides as follows:

> "*These Regulations implement Directive 2015/2302/EU of the European Parliament and of the Council amending Regulation (EC) No. 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC. These Regulations make provision in respect of package travel contracts and linked travel arrangements sold, or offered for sale, in the United Kingdom. The principal provisions of these*

[3] The revocation of the 1992 Regulations which appears in the draft 2018 Regulations does not have effect in relation to any contract which was concluded under the 1992 Regulations *before the commencement date* (being, 1 July 2018).

Regulations are as follows. Part 2 of these Regulations specifies the information which the organiser of a package travel contract must provide to a traveller before the contract is concluded and how that information is to be provided. Part 2 also makes provision for the contents of the package travel contract. Where the package travel contract is sold through a retailer, the organiser and the retailer must both ensure that this information is provided. An organiser or a retailer who fails to comply with these provisions commits an offence. Part 3 of these Regulations makes provision for the circumstances in which the traveller may transfer the package travel contract to another traveller or may terminate the contract. It also describes the exceptional circumstances in which the price, or other contract terms, may be altered and the limited scenarios where the organiser may terminate the contract. Part 4 prescribes how the contract is to be performed and sets out when and how compensation may be offered to the traveller in cases where there is a lack of conformity in the performance of the contract. Part 5 makes provision in respect of the possible insolvency of the organiser. The organiser must ensure that effective security is in place by way of insurance, bonding or monies in trust. In the event of the organiser's insolvency, such security must be able to cover the reasonably foreseeable costs of refunding all payments made by the traveller and, if the carriage of passengers is included in the package, of repatriating the traveller if necessary. Part 5 also requires traders who facilitate linked travel arrangements to ensure that travellers benefit from insolvency protection covering the refund of payments received from the travellers and, if that trader is responsible for the carriage of passengers, the cost of repatriation. The relevant trader must inform the traveller about that protection, and must also inform the traveller that the traveller will not benefit from other rights applying under these Regulations to package travel contracts. Part 6 of these Regulations makes general provision about the obligations of a retailer, where the organiser is established outside the European Economic Area. This Part also sets out the liability of the trader in respect of booking errors and the right of an organiser to seek redress from a third party. Part 7 deals with enforcement, prescribing the enforcement authorities and setting out a due diligence offence and a prosecution time limit. Part 8 revokes the Package Travel, Package Holidays and Package

Tours Regulations 1992 (S.I. 1992/3288), except in respect of contracts entered into prior to their revocation. Part 8 also makes amendments to primary and secondary legislation which are consequential upon the coming into force of these Regulations. Part 9 of these Regulations sets out a review provision."

VII. Withdrawal Agreement of 19 March 2018 (Reference TF50 (2018) 35 – Commission to EU27): "*kicking the can down the road*"

BBC NEWS March 2018: "*The key aspects of the agreement announced in Brussels are: The transitional period will last from Brexit day on 29 March 2019 to 31 December 2020*."

21. The Transition Period. Article 2(e) of the Withdrawal Agreement elliptically defines "*transition period*" as "*the period provided in Article 121*". Article 121 (part of the agreed text and, therefore, subject only to further *technical* changes) provides as follows:

> "*There shall be a transition or implementation period, which shall start on the date of entry into force of this Agreement and end on 31 December 2020*."

22. Jurisdiction during the Transition Period. The position remains unclear because the following provisions appear in white in the draft withdrawal agreement ("*In white, the text corresponds to text proposed by the Union on which discussions are ongoing as no agreement has yet been found*"). The following proposals appear in the text:
    a. Article 63(1)(a): "*In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following acts or provisions shall apply in respect of legal proceedings instituted before the end of the transition period: (a) the provisions regarding jurisdiction of Regulation (EU) No 1215/2012 of the European Parliament and of the Council* ["*recast Brussels I Regulation*"];
    b. Article 63(2)(a): "*In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following provisions shall apply in respect of the assessment of the legal force of agreements of jurisdiction or choice of court agreements concluded before the end of the transition period: (a) Article 25 of Regulation (EU) No 1215/2012*";

c. Article 63(3)(a): "*In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following acts or provisions shall apply as follows in respect of the recognition and/or enforcement of judgments, decisions, authentic instruments, court settlements and agreements: (a) Regulation (EU) No 1215/2012 shall apply to the recognition and enforcement of judgments given in legal proceedings instituted before the end of the transition period, and to authentic instruments formally drawn up or registered and court settlements approved or concluded before the end of the transition period*";

23. Applicable law in tort and contract during the Transitional Period. This is part of the (coloured green) agreed text of the Agreement.

> Article 62: "*In the United Kingdom, the following acts shall apply as follows: (a) Regulation (EC) No 593/2008 of the European Parliament and of the Council* ["*Rome I*"] *shall apply in respect of contracts concluded before the end of the transition period; (b) Regulation (EC) No 864/2007 of the European Parliament and of the Council* ["*Rome II*"] *shall apply in respect of events giving rise to damage, and which occurred before the end of the transition period*."

24. Service of documents during the Transitional Period. The following text appears in green and, accordingly, is agreed (subject to technical changes):

> Article 64 ("*Ongoing judicial cooperation procedures*"): "*In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following acts shall apply as follows: (a) Regulation (EC) No 1393/2007 of the European Parliament and of the Council* ["*the Service Regulation*"] *shall apply to judicial and extrajudicial documents which were received for the purposes of service before the end of the transition period by one of the following: (i) a receiving agency; (ii) a central body of the State where the service is to be effected; or (iii) diplomatic or consular agents, postal services or judicial officers, officials or other competent persons of the State addressed, as referred to in Articles 13, 14 and 15 of that Regulation*."

VIII. And *after* 31 December 2020 …

Independent (12 May 2018): "*The EU is to push for an optional six-month extension to the Brexit transition period to be built in to the UK's withdrawal agreement, The Independent understands. European Commission officials will seek the extension to give the EU added flexibility, but it comes as key figures in the UK also look to extend the transition to give time to implement new customs arrangements*."

Reuters News UK (16 May 2018): "*LONDON (Reuters) - Britain will not ask for an extension to the near-two year transition period with the European Union after Brexit when the government publishes its new detailed plans next month, Cabinet Office minister David Lidington said on Wednesday*."

> "*The government said on Tuesday* [15 May 2018] *it would publish detailed plans for its future relationship with the European Union next month. "Not only are we not asking for a longer transition period but the EU has always been very clear that you can't use Article 50 to talk about the long-term future relationship," Lidington told the BBC when asked about the White Paper. "There is a withdrawal agreement that talks about a period up until the end of 2020, then what we will be seeking to have agreed in clear outline .... over the ensuing period is the big treaty that sets the terms of the future relationship*."

25. As indicated above, the European Union (Withdrawal) Bill completed its Third Reading in the House of Lords on 16 May 2018 and now returns to the Commons for consideration of a number of controversial amendments.

26. And after 31 December 2020 + any extension of the transition period that may or may not be negotiated … ?

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