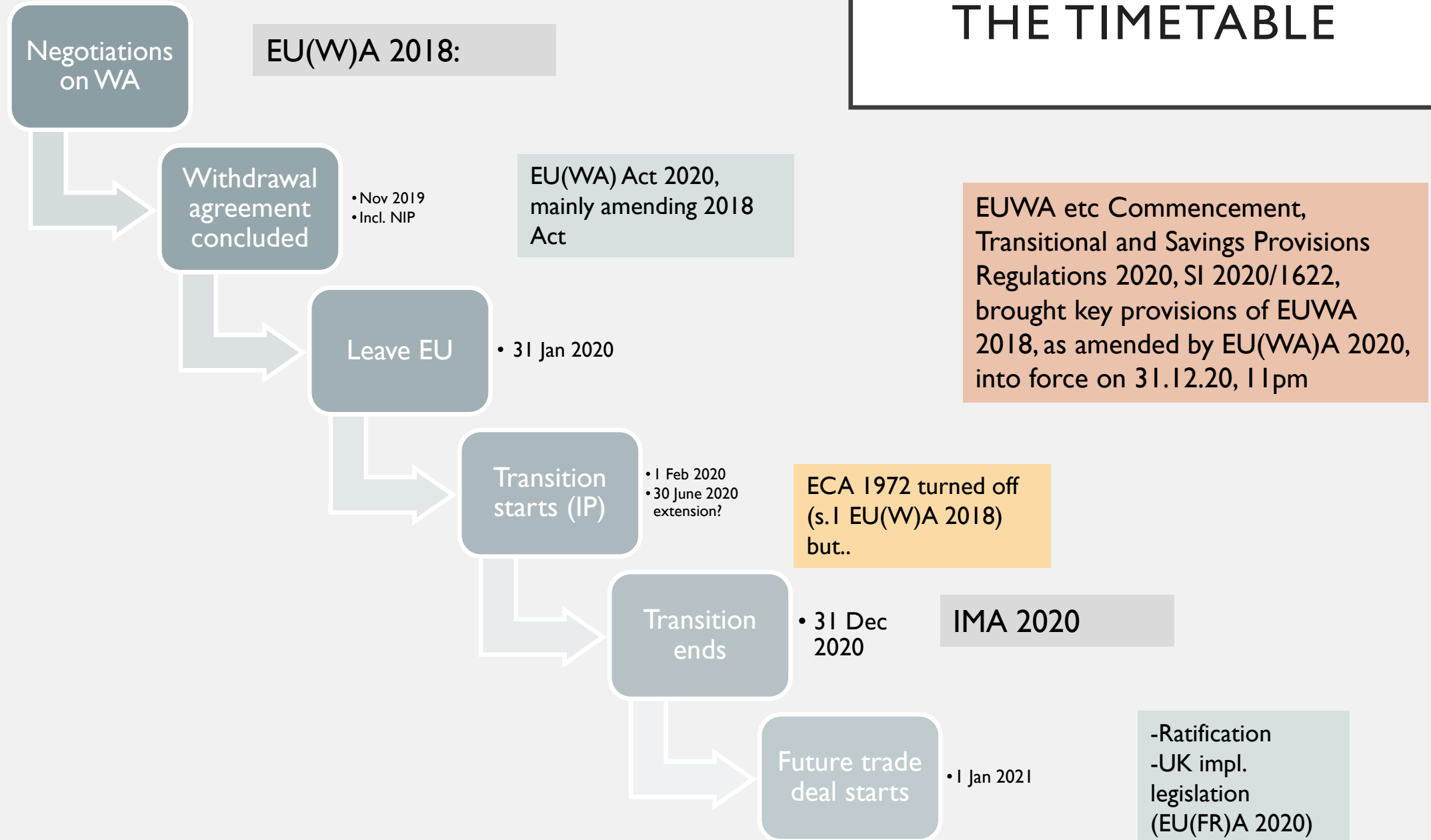


THE TRADE AND COOPERATION AGREEMENT

Catherine Barnard
Trinity College, Cambridge

THE TIMETABLE



STRUCTURE OF EU-UK TCA

Common and institutional provisions (Part One) incl. good faith, interpretation in accordance with VCLT, no direct effect

FTA (Part Two)

- Trade (incl services, pp, transport, social security coord, visas, fisheries, 'other provisions')

Law enforcement and judicial cooperation in criminal matters (Part Three)

Other

- Thematic cooperation (health, cyber security) (Part Four)
- Participation in union programmes, sound financial management, financial provisions (Part Five)

Annexes and protocols

- NB possibility of further bilateral agreements (Art. COMPROV.2)

Dispute settlement and horizontal provisions (Part Six)

Potential EU unilateral measures

- Adequacy decision on data protection
- UK third country SPS listing
- Equivalence in financial services

NB TCA's implementation to be reviewed every five years (Art. FINPROV.3)

OTHER TEXTS

Agreement between EU-UK concerning security procedures for exchanging and protecting classified information

Agreement between UK-EU for cooperation on the safe and peaceful uses of nuclear energy

- Euratom legal basis
- Separate governance structure

Declarations on issues where further cooperation is foreseen

- Eg financial services regulatory cooperation, subsidies, road hauliers, declaration of adequacy

GOVERNANCE AND DISPUTE SETTLEMENT

OVERALL GOVERNANCE STRUCTURE

Political

Partnership council (Art. INST.1)
– implementation, application
and interpretation of TCA

Input from Parliamentary
partnership Assembly

- Decisions and
Recommendations
(Art. INST.4)
- Only decisions
legally binding
 - Mutual consent

technical

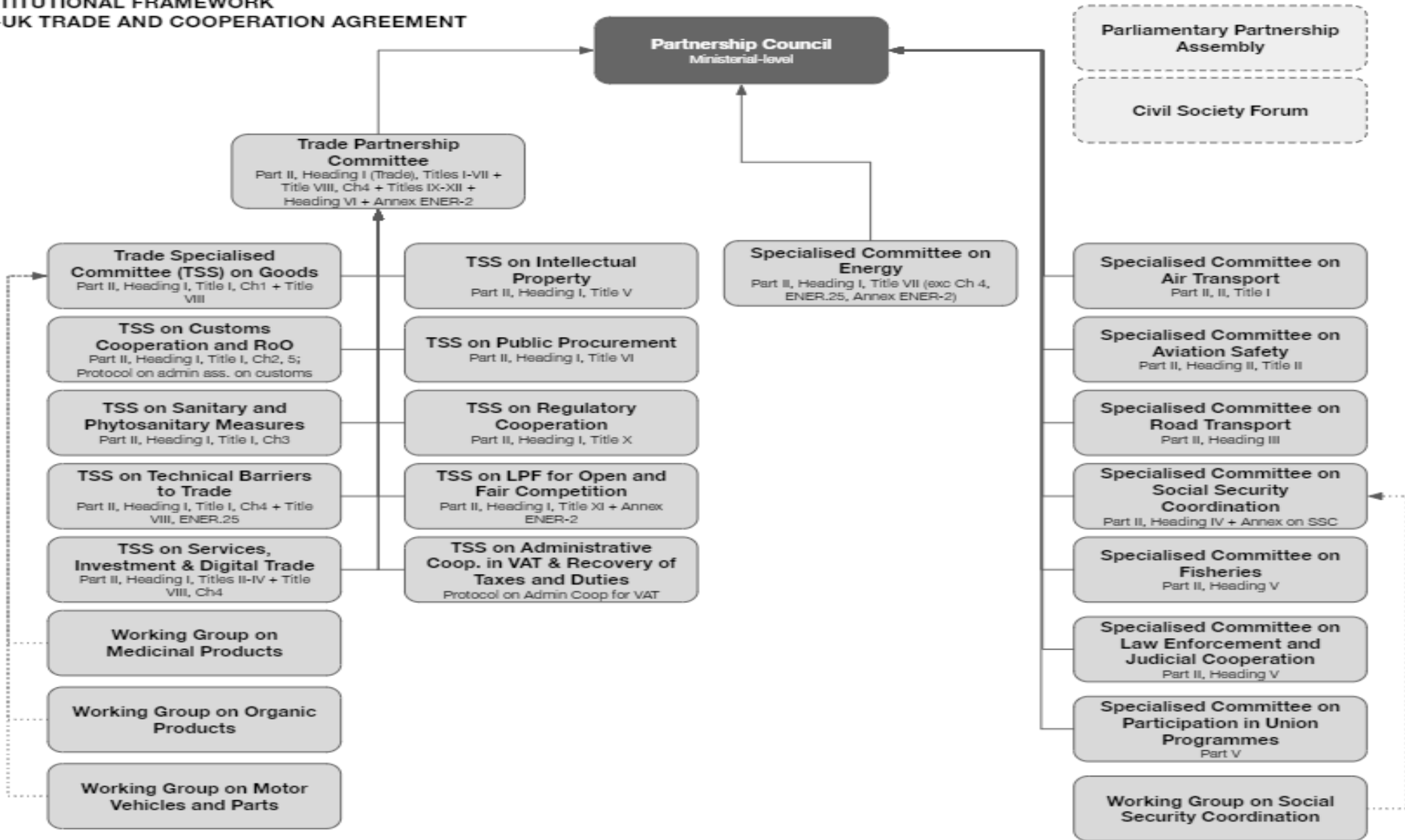
Trade Partnership Committee
(Art. INST.2.1)

- Participation of civil society
(Art. INST. 6-8)
- Domestic advisory
groups
 - Civil society forum

Specialised Committees (Art.
INST.2.1)

Working groups (Art. INST.3)

**INSTITUTIONAL FRAMEWORK
EU-UK TRADE AND COOPERATION AGREEMENT**



DISPUTE RESOLUTION

GENERAL PROCEDURE

Does the matters fall within scope?
(Art. INST.10)

- 'covered provisions' are all provisions of the Treaty but with some key exceptions (para. 2) eg criminal law

Consultations in PC (Art.INST.13)

- Held w/i 30 days
- Usually concluded w/i 30 days
- Good faith, mutually agreed solution

Arbitration Procedure (Art. INST. 14-20)

- 3 arbitrators with expertise in law and international trade; independent
- Terms of reference of AT
- Interim report w/1 100 days; comments w/14 days
- Final report 130 (160) days

Compliance (Art.INST.21-25)

- Comply w/i reasonable period or suitable agreed compensation
- If not, 'temporary' remedies, including proportionate cross-retaliation across all economic areas (eg tariffs on goods if there is a breach re fisheries or energy) ie suspend application of obligations

NB

- (1) law enforcement has its own enforcement mechanism (political)
- (2) Specific measures for breaches of LPF and fisheries

LEVEL PLAYING FIELD

SUMMARY

Employment law

Non-regression (ie not weaken or reduce) rules on *existing* employment law *in manner affecting trade or investment*

Arts. 6.1, 6.2, 6.3 and 6.4 (Arts. 9.1-9.3 (INST 9.4)) LPF

Other instruments for trade and sustainable development

Arts. 8.1 and 8.3 LPF

Rebalancing measures on *future* developments in labour law

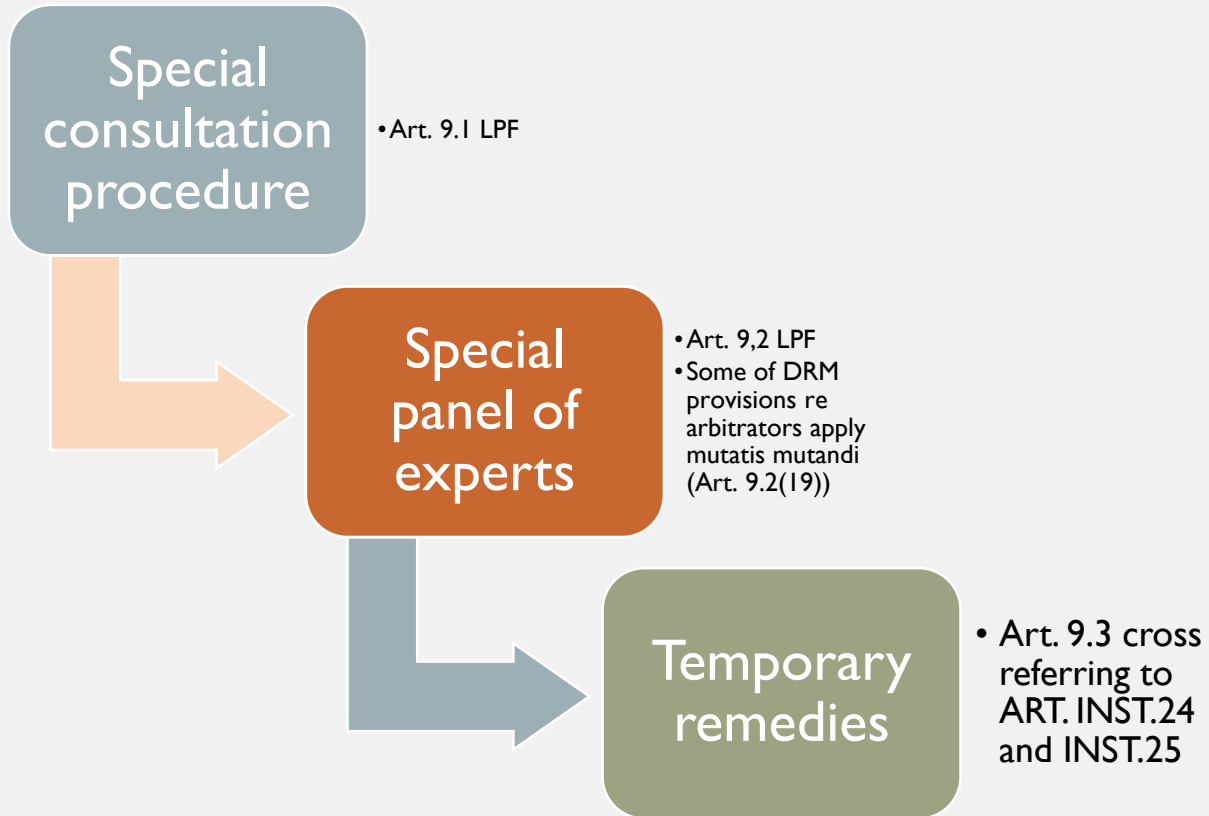
(If material impacts on trade or investment between the Parties are arising as a result of significant divergences between the Parties)

Art. 9.4 LPF

Fund. rights at work; occupational H&S; fair working conditions and employment standards; I&C at company level; restructuring of undertakings

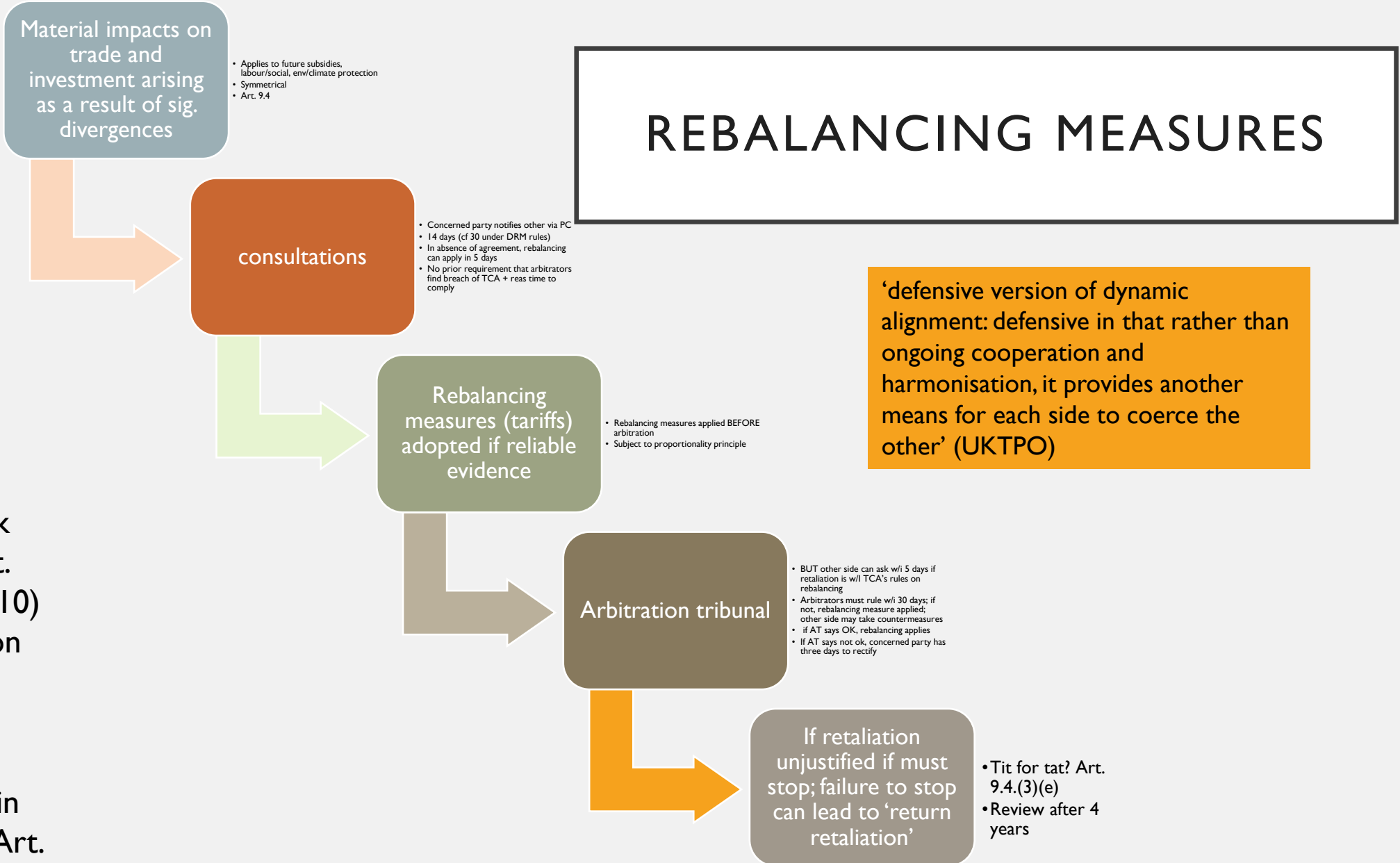


NON-REGRESSION PROCEDURE



So retaliation possible where Panel report rules there is a breach of the non-regression clause

NB Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR)



NB

(1) Special fast track procedures (Art. INST.34B) eg 2(10) days to decide on composition of tribunal

(2) Proportionate retaliation only in covered areas (Art. INST.34D)

FINANCIAL TIMES

FRIDAY 15 JANUARY 2021

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Family fortunes

Rioters were united by their loyalty to the Trump cult — EDWARD LUCE, PAGE 8

Cabin pressure

Will the business trip ever return to its glory days? — BIG READ, PAGE 21



Deny the deniers

Ignore conspiracy theorists at your peril — JOHN THORNHILL, PAGE 23

Lost million Crisis triggers UK exodus

Up to 1.3m immigrants left the UK as the pandemic took hold, sparking what is likely to be the largest drop in Britain's population since the second world war, according to analysis of official data.

The government-funded Economic Statistics Centre of Excellence calculated that about 700,000 foreign-born residents probably moved out of London alone in the year to the third quarter of 2020, leading to an 8 per cent fall in the capital's population last year.

The high number of job losses in hard-hit sectors such as hospitality contributed to the exodus, the authors of the study said, warning that migrants with out-of-date status would find it harder to return to a post-Brexit UK.

Report page 2



A deserted Piccadilly Circus in London last week after England's third national lockdown came into force

Plans to tear up EU worker rights regime puts 48-hour week at risk

◆ Shake-up set to anger unions ◆ Rethink on breaks and overtime ◆ Labour slams

PETER FOSTER, JIM PICKARD AND DELPHINE STRAUSS — LONDON
JIM BRANDEN — BRUSSELS

Worker protections enshrined in EU law — including the 48-hour week — would be ripped up under plans being drawn up by the government as part of a post-Brexit overhaul of labour markets.

The package of deregulatory measures to be put together by the business department with the approval of Downing Street, according to people familiar with the matter. It has not yet been agreed by ministers — or put to the cabinet — but select business leaders have been sounded out on the plan.

The proposed shake-up of regulations from the "working time directives" will delight many Tory MPs but is likely to anger trade union leaders.

The move would potentially mark a clear divergence from EU labour standards. However, the UK would face retaliation from Brussels under the terms of its post-Brexit trade treaty only if the EU could demonstrate the changes had a material impact on competition.

The main areas of focus are on ending the 48-hour limit on the working week, tweaking rules around breaks and not including overtime pay when calculating some holiday pay entitlements, according to people familiar with the plans. The government also wants to remove the requirement of businesses to report working hours, saving an estimated £1bn.

It is intended that any reforms would be designed to help both companies and employees — and would be put to a full

consultation — saying it had no intention of "lowering" workers' rights. "The UK has one of the best workers' rights records in the world," the business department said. "Leaving the EU allows us to continue to be a standard setter and protect and enhance UK workers' rights."

Ed Milliband, Labour's business secretary, said the proposals were a "slap in the face" at a time when so many people were worried about their jobs. "In the midst of the worst economic crisis in three centuries, ministers are preparing to tear up their promises to the British people and taking a sledgehammer to workers' rights."

But Matt Kichynski, deputy head of the free market Adam Smith Institute, welcomed the proposals, saying the cur-



Ed Milliband, Labour's business secretary, accused Tories of "taking a sledgehammer to workers' rights"

rent "one size fits all" 48-hour limit on the working week. "EU officials have set tariffs and other 'red lines' against the UK. Brexit trade deal would remove the impact of policy decisions.

Brussels has often highlighted labour market standards as a core issue for the "level playing field" that the deal is meant to uphold. Britain, along with many EU countries, opted-out of entering the 48-hour limit on the working week.

In a call with 250 leading business figures this month Boris Johnson urged industry to support regulatory liberalisation after Brexit — to the delight of many free marketeers in his cabinet. Fishing betrayal page 2

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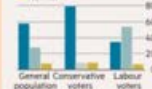
Employment rights review scrapped by business secretary

2 days ago



Virus vitriol

Who's to blame for Britain's recent rise in Covid-19 cases? EU



About 58 per cent of British people blame the public more than the government for the increase in UK commercial cases over the past month. Only 28 per cent blame the government.



Digital Covid passport aims to open way for travellers with proof of jobs

HANNAH KUCHLER — NEW YORK

For Covid-19, the pass is being used

Each country can set its own rules,

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Kwarteng has denied reports that his department workers' rights.

Times said some protections brought in under EU mit on the working week - could be scrapped.

nd changes to how holiday pay is calculated from d, it added.

ie wanted to "protect and enhance workers' rights going forward, not row back on them".

In a social media post, he said that the UK "has one of the best workers' rights records in the world - going further than the EU in many areas."



We are not going to lower the...

