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VOLUME 2

STAKEHOLDER NOTICES

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This Brexit contingency pack contains 3 volumes of the most relevant documents and materials, which the Commission has produced since early 2017. It contains:

Volume 1 Key information for citizens and businesses:

- 5 notices for citizens which present information from the stakeholder notices in a format that is more accessible to citizens;
- 2 factsheets presenting seven things citizens need to know when travelling between the UK and the EU after Brexit and that businesses in the EU27 need to know — in the event of no deal;
- Preparedness stakeholder notice on travelling;
- Specific guidance on customs we have provided to stakeholders because it is an area where the impact of Brexit will be felt immediately.

Volume 2 Stakeholder Notices:

- 91 stakeholder notices, which provide advice to stakeholders on the implications of a no-deal Brexit and on how to prepare. These are presented by policy area.

Volume 3 Communications on preparedness and legal acts:

- 3 Commission Communications on preparedness and contingency measures, explaining our overall approach and the specific measures taken;
- 19 Legislative proposals. Of these, 17 have been adopted and the texts are included here. Two proposals on the budget and on visas have not yet been adopted;
- A list of non-legislative preparedness and contingency acts;
- An overview by DG HOME of the measures that Member States are taking on citizens' rights. Member States are implementing the generous approach towards UK citizens, that the Commission recommended they do;
- Draft guidance on social security coordination produced by DG EMPL, which complements the Regulation on establishing contingency measures in the field of social security coordination.

Following the European Council (Article 50) on 22 March 2019, any reference in the documents published in this Package to 30 March 2019, 00:00h (CET) as the withdrawal date must be read as referring to 13 April 2019, 00:00h (CET). On 22 March 2019, the European Council (Article 50) decided, in agreement with the United Kingdom and in the event that the Withdrawal Agreement is approved by the House of Commons by 29 March, to extend the two-year period provided for by Article 50(3) of the Treaty on European Union until 22 May 2019. In the event that the Withdrawal Agreement is not approved by the House of Commons by 29 March 2019, the European Council decided to extend the period provided for by Article 50(3) of the Treaty on European Union until 12 April 2019.

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EUROPEAN COMMISSION
DIRECTORATE-GENERAL CLIMATE ACTION

Brussels, 13 November 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES FOR CO2 STANDARDS FOR NEW PASSENGER CARS AND NEW LIGHT COMMERCIAL VEHICLES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders are reminded of legal repercussions which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU CO_2 standards for new passenger cars and new light commercial vehicles[4] will no longer apply to the United Kingdom. This has in particular the following consequences:

1. SPECIFIC EMISSIONS TARGETS

Article 4 of Regulation (EC) No 443/2009 and Article 4 of Regulation (EU) No 510/2011 provides an obligation for manufacturers of new passenger cars and new light commercial vehicles to meet specific CO_2 targets that are calculated annually

1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Regulation (EC) No 443/2009 of the European Parliament and the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO2 emissions from light-duty vehicles, OJ L 140 5.6.2009, p. 1; Regulation (EU) No 510/2011 of the European Parliament and the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO 2 emissions from light-duty vehicles, OJ L 145, 31.5.2011, p. 1.

taking into account the EU wide reduction targets set out in Article 1 of the respective Regulation (i.e. passenger cars: 130gCO_2/km by 2015 and 95g CO_2/km by 2021; light commercial vehicles: 175gCO_2/km by 2017 and 147gCO_2/km by 2020). It is for manufacturers to ensure that the average CO_2 emissions of their fleet of newly registered vehicles do not exceed their annual specific emissions target.

As of the withdrawal date, new passenger cars and new light commercial vehicles registered in the United Kingdom will no longer count towards the calculation of the average specific emissions of CO_2 in the EU.

2. ANNUAL TRANSMISSION OF CO_2 EMISSION DATA

According to Article 8 of Regulation (EC) No 443/2009 and Article 8 of Regulation (EU) No 510/2011, by 28 February each year, Member States must record and transmit to the Commission certain data on new passenger cars and new light commercial vehicles registered in the Union in the preceding calendar year. That data will form the basis for determining the average specific emissions of CO_2 and the specific emissions target for each manufacturer and will also serve for assessing whether manufacturers comply with those targets.[5]

Data for new registrations in 2018 transmitted by 28 February 2019 prior to the withdrawal date will be considered for determining the 2018 average specific emissions of CO_2 and the specific emissions target for that year for manufacturers of new passenger cars and new light commercial vehicles.

As of the withdrawal date, the United Kingdom is no longer required to record and transmit to the Commission data on registrations in the United Kingdom, i.e. in 2020 the United Kingdom is no longer obliged to transmit the data in relation to registrations in the calendar year 2019.

3. DEROGATIONS FROM THE SPECIFIC EMISSIONS TARGET

According to Article 11 of Regulation (EC) No 443/2009 and Article 11 of Regulation (EU) No 510/2011, manufacturers may under certain conditions benefit from derogations from their specific emission targets, if they are responsible for fewer than 300 000 new registrations of passenger cars and fewer than 22 000 new registrations of light commercial vehicles in the EU per calendar year.

Registrations in the United Kingdom as of the withdrawal date do not count when assessing whether a manufacturer is eligible for such derogations. If the withdrawal of the United Kingdom affects the eligibility of a manufacturer for a derogation, that manufacturer must notify the Commission immediately.

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[5] In order to ensure the consistency of the data to be transmitted by the Member States, Commission Regulation (EU) No 1014/2010 of 10 November 2010 on monitoring and reporting of data on the registration of new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 293, 11.11.2010, p. 15) and Commission Implementing Regulation (EU) No 293/2012 of 3 April 2012 on monitoring and reporting of data on the registration of new light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council (OJ L 98, 4.4.2012, p. 1) set out rules on the collection and reporting of that data.

4. EU REPRESENTATIVES

Pursuant to Article 3(1)(c) of Regulation (EC) No 443/2009 and Article 3(1)(f) of Regulation (EU) No 510/2011 read in conjunction with Article 3(27) and (28) and Article 5(3) of Directive 2007/46/EC, as of the withdrawal date,

- a manufacturer based in the United Kingdom has to have an EU representative in the EU-27;

- a manufacturer based in a third country whose EU representative is currently based in the United Kingdom has to have an EU representative in the EU-27.

The Commission should be informed immediately of the contact details of the EU representative.

European Commission
Directorate-General Climate Action

EUROPEAN COMMISSION
DIRECTORATE-GENERAL CLIMATE ACTION

Brussels, 19 December 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON THE MONITORING AND VERIFICATION OF CO_2 EMISSIONS FROM MARITIME TRANSPORT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[3] as of the withdrawal date, the EU rules governing reporting, monitoring and verification of CO_2 emissions from maritime transport, and in particular, Regulation (EU) 2015/757 on the Monitoring, Reporting and Verification of Carbon Dioxide (CO_2) Emissions from Maritime Transport,[4] no longer apply to the United Kingdom. This has in particular the following consequences:

1. SCOPE OF THE MONITORING OBLIGATION

According to Articles 4(1) and 6(1) of Regulation (EU) 2015/757, companies shall monitor and report CO_2 emissions of their ships – regardless of their flag – within Member State ports and for any voyage to or from the port of a Member State.

[1] In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[2] A third country is a country not member of the EU.

[3] Cf. Part four of the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, as agreed at negotiator's level on 14 November 2018 (https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132_en)

[4] OJ L 123, 19.5.2015, p. 55.

Companies have to submit monitoring plans to accredited verifiers setting out inter alia the monitoring method for each of their ships, as well as verified annual emission reports containing all relevant data to the European Commission and the authorities of the Flag State.

As of the withdrawal date, CO_2 emissions

- of ships within ports under the jurisdiction of the United Kingdom; and
- from voyages from a port of the United Kingdom to the port of a third country, and *vice-versa*

do not fall under these monitoring and reporting requirements.

2. DOCUMENTS OF COMPLIANCE; ACCREDITATION OF VERIFIERS

According to Articles 13 and 17 of Regulation (EU) 2015/757, a verifier shall assess the conformity of the monitoring plan with the Regulation and issue a document of compliance.

According to Article 17(4) of Regulation (EU) 2015/757, the verifier shall inform the Commission and the flag State of the issuance of the document of compliance.[5]

According to Article 16 of Regulation (EU) 2015/757, the verifier has to be accredited by a national accreditation body of an EU Member State in line with Regulation (EC) No 765/2008.[6]

As of the withdrawal date, accreditations by the UK National Accreditation Body will no longer be valid in the EU.

As a consequence, as of the withdrawal date, verifiers accredited by the UK National Accreditation Body can no longer issue documents of compliance under Regulation (EU) 2015/757.

The website of the Commission on reducing greenhouse gas emissions from the shipping sector (https://ec.europa.eu/clima/policies/transport/shipping_en) provides general information in this regard. These pages will be updated with further information, where necessary.

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[5] In addition, according to Article 18 of Regulation (EU) 2015/757, ships arriving at, within or departing from a port of a Member State have to carry on board a valid document of compliance to demonstrate compliance with the monitoring, reporting and verification obligations under the Regulation.

[6] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products, OJ L 218, 13.8.2008, p. 30.

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Brussels, 19 December 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND THE EU EMISSIONS TRADING SYSTEM (ETS)

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[3] as of the withdrawal date, the EU rules governing the EU Emission Trading System, and in particular Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union[4] and Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry[5], no longer apply to the United Kingdom. This has in particular the following consequences:

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1 In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

2 A third country is a country not member of the EU.

3 Cf. Part four of the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, as agreed at negotiator's level on 14 November 2018 (https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132_en)

4 OJ L 275, 25.10.2003, p. 32.

5 Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, OJ L 122, 3.5.2013, p. 1.

1. SCOPE OF THE EU EMISSION TRADING SYSTEM

Directive 2003/87/EC applies to emissions from activities listed in its Annex I and greenhouse gases listed in its Annex II (cf. Article 2 of Directive 2003/87/EC). Annex I to Directive 2003/87/EC includes certain activities carried out in stationary installations as well as aviation.

1.1. Stationary installations

According to Directive 2003/87/EC, the EU Emissions Trading System includes all stationary installations in an EU Member State that carry out activities listed in Annex I of Directive 2003/87/EC and emit greenhouse gases listed in Annex II of Directive 2003/87/EC.

As of the withdrawal date, stationary installations in the United Kingdom are no longer within the scope of Union law and the EU Emission Trading System.

1.2. Aviation

While Directive 2003/87/EC generally applies to all "flights which arrive at or depart from an aerodrome situated in the territory of a Member State to which the Treaty applies" (Article 3a and Annex I, point 6, of Directive 2003/87/EC), it also provides for a derogation from its core substantive obligations as regards "flights to and from aerodromes located in countries outside the EEA" (Article 28a of Directive 2003/87/EC).

As of the withdrawal date, the derogation from the EU Emission Trading System applies to flights from the United Kingdom to the EU and *vice-versa.*

2. ADMINISTERING MEMBER STATE FOR AIRCRAFT OPERATORS

To ensure the correct implementation of the EU Emission Trading System for aviation, Article 18a of Directive 2003/87/EC establishes the administering Member State for aircraft operators.

As of the withdrawal date, the United Kingdom no longer acts as administering Member State. The Commission services will update the attribution list of aircraft operators set out in Commission Regulation (EC) No 748/2009[6] in the context of the annual update[7], to inform aircraft operators of the administering Member State.[8] [9]

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[6] Commission Regulation (EC) No 748/2009 of 5 August 2009 on the list of aircraft operators which performed an aviation activity listed in Annex I to Directive 2003/87/EC on or after 1 January 2006 specifying the administering Member State for each aircraft operator, OJ L 219, 22.8.2009, p. 1.

[7] Article 18a(3)(b) of Directive 2003/87/EC.

[8] See Annex 2 to Commission Communication "Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan", COM(2018)880, 13 November 2018.

3. VERIFICATION REPORT; ACCREDITATION OF VERIFIERS

According to Article 14(3) of Directive 2003/87/EC, installation or aircraft operators have to monitor and report CO_2 emissions annually to the competent authority. According to Article 15 of Directive 2003/87/EC, these reports shall be verified.

According to Article 44 and Annex II of Commission Implementing Regulation (EU) 2018/2067 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC[10], a verifier issuing a verification report has to be accredited according to the provisions of that Regulation and of Regulation (EC) No 765/2008.[11]

As of the withdrawal date, accreditations by the UK National Accreditation Body will no longer be valid in the EU.

As a consequence, as of the withdrawal date, verifiers accredited by the UK National Accreditation Body can no longer issue verification reports under Directive 2003/87/EC.

4. ACCOUNTS HELD IN THE UNION REGISTRY

According to Article 19 of Directive 2003/87/EC, emission allowances issued under the EU ETS are held in a Union Registry. The Union Registry keeps track of the ownership of allowances held in electronic accounts for stationary installations and for aircraft operators. The Union Registry also serves as the Kyoto Protocol registry of the EU and of the individual Member States.[12]

Accounts in the Union Registry are administered by an EU Member State.

As of the withdrawal date, the United Kingdom can no longer administer accounts in the Union Registry and the Union Registry no longer serves as the Kyoto Protocol registry of the United Kingdom. Accounts in the Union Registry

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9 This attribution is also relevant in the context of aviation security, since it establishes the "appropriate authority" to designate air carriers operating into the Union from a third country airport. See Section 6.8.1.1.b. of the Annex to Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security (OJ L 299, 14.11.2015, p. 1) and the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of aviation security and maritime security*" (REV1, 23 October 2018).

10 Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council, OJ L 334, 31.12.2018, p. 94.

11 Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products, OJ L 218, 13.8.2008, p. 30.

12 Article 10 of Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change, OJ L 165, 18.6.2013, p. 13.

administered by the United Kingdom and accounts in the Kyoto Protocol registry of the United Kingdom can no longer be accessed as of the withdrawal date.

5. AUCTIONS, FREE ALLOCATION AND EXCHANGE OF INTERNATIONAL CREDITS

The EU ETS provides for auctioning by Member States[13], free allocation of allowances by Member States[14] and exchange of international credits by installation and aircraft operators.[15]

As of the withdrawal date, no more auctions by the United Kingdom, no more allocation of free allowances to the accounts administered by the United Kingdom can take place and no exchanges of international credits can be performed by installation and aircraft operators administered by the United Kingdom.

Stakeholders are reminded that from 1 January 2019 emission allowances auctioned or allocated by the United Kingdom will be identified by a country code.[16] Emission allowances marked with a country code cannot be surrendered by any installation or aircraft operator.[17] The marking of allowances auctioned or allocated by the United Kingdom will be lifted on the day following the one on which the ratification instruments concerning the Withdrawal Agreement are deposited.[18]

Moreover, according to Article 99(5) of Regulation (EU) No 389/2013, the Commission has the power to suspend, with regard to the United Kingdom, the free allocation, auctioning of allowances and the exchange of international credits. On this basis, as part of its contingency measures, the Commission has instructed the central administrator to suspend relevant processes for the United Kingdom from 1 January 2019 until the day following that on which the ratification instruments concerning the Withdrawal Agreement are deposited.[19]

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13 Article 10 of Directive 2003/87/EC.

14 Article 10a of Directive 2003/87/EC.

15 Article 11a of Directive 2003/87/EC.

16 Article 41(4) of Regulation (EU) No 389/2013.

17 Article 67(4) of Regulation (EU) No 389/2013.

18 Commission Delegated Regulation (EU) …/… of 19 December 2018 amending Commission Regulation No 389/2013 of 2 May 2013 establishing a Union Registry (C(2018)8871 final) (https://ec.europa.eu/clima/policies/ets_en).

19 Commission Decision of 17 December 2018 on instructing the central administrator to temporarily suspend the acceptance by the European Union Transaction Log of relevant processes for the United Kingdom relating to free allocation, auctioning and the exchange of international credits (C(2018) 8707).

The website of the Commission on the EU ETS (https://ec.europa.eu/clima/policies/ets_en) provides general information in this regard. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Climate Action

EUROPEAN COMMISSION
DIRECTORATE-GENERAL CLIMATE ACTION

Brussels, 19 December 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON FLUORINATED GREENHOUSE GASES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[3] as of the withdrawal date, the EU rules on fluorinated gases, and in particular, Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases[4] will no longer apply to the United Kingdom. This has in particular the following consequences:

[1] In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[2] A third country is a country not member of the EU.

[3] Cf. Part four of the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, as agreed at negotiator's level on 14 November 2018 (https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132_en)

[4] OJ L 150, 20.5.2014, p. 195.

1. QUOTA ALLOCATION FOR HYDROFLUOROCARBONS

According to Regulation (EU) No 517/2014, the placing on the market of hydrofluorocarbons is limited through quotas allocated by the Commission for each producer and importer in accordance with Article 16(5).[5]

As of the withdrawal date, hydrofluorocarbons placed on the market of the United Kingdom are no longer within the scope of Regulation (EU) No 517/2014 and do no longer count towards the quota allocated by the Commission to producers and importers.

As part of its preparedness measures, the Commission has amended UK companies' reference values to exclude the share related to the UK domestic activities.[6] [7]

2. REPORTING ON FLUORINATED GASES[8]

According to **Article 19(1) of Regulation (EU) No 517/2014**, producers, importers and exporters of fluorinated greenhouse gases and gases listed in Annex II have to report annually, by 31 March, certain data. This obligation also applies to undertakings established in third countries and exporting fluorinated greenhouse gases and gases listed in Annex II to the EU acting through an EU-based "only representative".[9] As of the withdrawal date,

- undertakings established in the United Kingdom exporting fluorinated greenhouse gases and gases listed in Annex II to the EU are undertakings from a third country. As regards their trade in fluorinated gases with the Union, these undertakings will have to report the relevant data required by Regulation (EU) No 517/2014 through an EU-based only representative; and

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[5] The quotas for incumbent companies for the period until 31 December 2020 are calculated on the basis of reference values set in Commission Implementing Decision (EU) 2017/1984 of 24 October 2017 determining, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases, reference values for the period 1 January 2018 to 31 December 2020 for each producer or importer which has lawfully placed on the market hydrofluorocarbons from 1 January 2015 as reported under that Regulation, OJ L 287, 4.11.2017, p. 4.

[6] Commission Implementing Decision (EU) 2018/2023 of 17 December 2018 on amending Commission Implementing Decision (EU) 2017/1984 determining, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases, reference values as regards reference values for the period from 30 March 2019 to 31 December 2020 for producers or importers established within the United Kingdom, which have lawfully placed on the market hydrofluorocarbons from 1 January 2015, as reported under that Regulation (OJ L 323, 19.12.2018, p. 32). See also section 5 (subsection "EU climate policy") and Annex 2 of Commission Communication "Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan", COM(2018)880, 13 November 2018.

[7] This share was determined in a dedicated data collection exercise carried out between 18 January and 18 May 2018 with companies holding a reference value and established in the United Kingdom.

[8] It is recalled that, if the Withdrawal Agreement is ratified by the EU and the United Kingdom, its Article 96(3) provides that Article 19 of Regulation (EU) No 517/2014 continues to apply to and in the United Kingdom in respect of the reporting for the last year of the transition period.

[9] See point 4 of this notice.

- undertakings established in the EU-27 Member States have to report trade with entities in the United Kingdom as import to or export from the EU.

Regarding the 2018 reporting period, stakeholders are strongly encouraged to report before the withdrawal date.

According to **Article 19(4) of Regulation (EU) No 517/2014**, undertakings placing fluorinated greenhouse gases and gases listed in Annex II contained in products or equipment on the EU market have to report annually, by 31 March, certain data. As of the withdrawal date, undertakings established in the United Kingdom exporting such goods to the EU no longer report this data. Instead, this information will have to be reported by the EU-based importer placing the products or equipment on the market in the Union.

Regarding the 2018 reporting period, stakeholders are strongly encouraged to report before the withdrawal date.

According to **Article 19(2) and (3) of Regulation (EU) No 517/2014**, undertakings that destroyed or used a certain amount of fluorinated greenhouse gases as feedstock have to report this, annually, by 31 March, for the preceding calendar year. As of the withdrawal date, undertakings in the United Kingdom no longer have to report these activities.

Regarding the 2018 reporting period, stakeholders are strongly encouraged to report before the withdrawal date.

As part of its preparedness measures, the Commission has amended the format for reporting to ensure separate reporting of hydrofluorocarbons placed on the market in the United Kingdom and of the EU-27 market.[10]

3. VERIFICATION REPORT, ACCREDITATION OF AUDITORS

According to Article 19(6) of Regulation (EU) No 517/2014, producers, importers and exporters of fluorinated greenhouse gases shall make available verification reports, on request, to the competent authority of the Member State concerned and to the Commission. These verification reports shall be drawn up by an auditor accredited pursuant to Directive 2003/87/EC or by an auditor accredited to verify financial statements in accordance with the legislation of the concerned Member State.

In addition, according to Article 19(5) of Regulation (EU) No 517/2014, each importer of pre-charged equipment shall submit a verification document issued by accredited auditors, in accordance with Article 14 of Regulation (EU) No 517/2014.

As of the withdrawal date, accreditations by the UK National Accreditation Body will no longer be valid in the EU.

[10] Commission Implementing Regulation (EU) 2018/1992 of 14 December 2018 amending Implementing Regulation (EU) No 1191/2014 as regards the reporting of data referred to in Article 19 of Regulation (EU) No 517/2014 in respect of hydrofluorocarbons placed on the market in the United Kingdom and in the Union of 27 Member States, OJ L 320, 17.12.2018, p. 25.

As a consequence, as of the withdrawal date, auditors accredited by the UK National Accreditation Body can no longer draw up verification reports for submission according to Article 19(5) and (6) of Regulation (EU) No 517/2014.

4. "ONLY REPRESENTATIVE" IN CASE OF IMPORTS

According to Article 16(5) of Regulation (EU) No 517/2014, the placing on the market of hydrofluorocarbons in the EU by a non-EU company requires an "only representative" established in the EU.

As of the withdrawal date, hydrofluorocarbons imported from the United Kingdom into the EU-27 by a company established in the United Kingdom require that an "only representative" established in the EU-27 is mandated.

As of the withdrawal date, representatives established in the United Kingdom are no longer considered as "only representatives" for the purpose of imports of hydrofluorocarbons into the EU-27 from third countries.

5. CERTIFIED PERSONS AND UNDERTAKINGS

According to Article 4(1) and (2) of Regulation (EU) No 517/2014, operators of certain equipment that contains fluorinated greenhouse gases shall ensure that this equipment is checked for leaks. According to the second subparagraph of Article 4(2), certain of these checks have to be carried out by certified persons.

According to Article 8(1) of Regulation (EU) No 517/2014, operators of certain stationary equipment or refrigeration units shall ensure the recovery of fluorinated greenhouse gases is carried out by natural persons holding a certificate.

According to Article 8(3) of Regulation (EU) No 517/2014, the recovery of fluorinated greenhouse gases from air-conditioning equipment in road vehicles falling within the scope of Directive 2006/40/EC shall be carried out by persons with a training attestation.

Pursuant to Article 10 of Regulation (EU) No 517/2014, EU Member States have to establish:

- certification programmes for undertakings carrying out installation, servicing, maintenance, repair or decommissioning of the equipment listed in points (a) to (d) of Article 4(2) for other parties;

- certification programmes for natural persons carrying out those activities; and

- training programmes for natural persons recovering fluorinated greenhouse gases from air-conditioning equipment in motor vehicles falling within the scope of Directive 2006/40/EC.

According to the second subparagraph of Article 10(10), the certificates and training attestations issued in one Member State are mutually recognised for activities carried out in other EU Member States.

As of the withdrawal date, certificates and training attestations issued in the United Kingdom are no longer recognised for activities carried out in the EU-27.

The website of the Commission on the fluorinated gases (https://ec.europa.eu/clima/policies/f-gas_en) provides general information in this regard. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Climate Action

Communications Networks, Content and Technology

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

Brussels, 19 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF AUDIOVISUAL MEDIA SERVICES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all interested parties, and especially providers of audiovisual media services, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of audiovisual media services will no longer apply to the United Kingdom. This has in particular the following consequences:

1. COUNTRY OF ORIGIN AND JURISDICTION

Directive 2010/13/EU[4] (the Audiovisual Media Services Directive) relies on the so-called "Country-of-Origin" principle, according to which media service providers[5] shall, as a

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), OJ L 95, 15.4.2010, 1.

It is noted that the Audiovisual Media Services Directive is currently under review. The Commission adopted on 25 May 2016 a legislative proposal with a view to amend that Directive. See COM(2016)287.

general rule, be subject only to the law and the jurisdiction of their EU Member State of origin (as determined in the Directive), including when their programmes are received and/or re-transmitted in other EU Member States.

The Audiovisual Media Services Directive sets out specific rules for determining which EU Member State has jurisdiction over a media service provider in accordance with the Country-of-Origin principle. In particular, such providers shall be under the jurisdiction of the authorities of the Member State in which they are established on the basis of specific criteria laid down in the Directive.[6] When these criteria are not applicable, subsidiary criteria are set out for media service providers broadcasting via satellite.[7] In cases where none of the above criteria are applicable, the competent Member State shall be that in which the provider is established within the meaning of Article 49 to 55 of the Treaty on the Functioning of the European Union.

As of the withdrawal date, audiovisual media services providers currently under the jurisdiction of United Kingdom authorities (for example because they are established in the United Kingdom within the meaning of the Directive), may fall under the jurisdiction of one of the EU-27 Member States if the criteria laid down in Article 2 of the Audiovisual Media Services Directive are fulfilled. Moreover, EU-27 Member States will be free to take whatever measures they will deem appropriate with regard to audiovisual media services coming from the United Kingdom as a third country and not satisfying the conditions laid down in Article 2 of the Audiovisual Media Services Directive, provided they comply with Union law and the international obligations of the Union and, where applicable, within the limits of the European Convention on Transfrontier Television[8] (cf. recital 54 of the Audiovisual Media Services Directive).

2. COUNTRY OF ORIGIN AND FREEDOM OF TRANSMISSION/RECEPTION

Under Article 3 of the Audiovisual Media Services Directive, EU Member States shall ensure freedom of reception and shall not restrict retransmission on their territory of audiovisual media services from other Member States for reasons which fall within the fields coordinated by this Directive.

As of the withdrawal date, audiovisual media services of United Kingdom media service providers received or retransmitted in the EU will no longer benefit from the freedom of reception and retransmission laid down in Article 3 of the Audiovisual Media Services Directive. Therefore, EU-27 Member States will be entitled, based on their own national law and, where applicable, within the limits of the European Convention on Transfrontier

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5 As defined in the Audiovisual Media Services Directive.

6 Such criteria include, in particular, the location of the provider's head office, the place where editorial decisions about the audiovisual media service are taken, the place from where of the majority of the workforce involved in the service operates (cf. Article 2(3) of the Audiovisual Media Services Directive).

7 These criteria are: the Member State where the satellite uplink is situated or, in the absence of a satellite uplink in a Member State, the Member State to which the satellite capacity used by the provider appertains (cf. Article 2(4) of the Audiovisual Media Services Directive).

8 20 of the EU-27 Member States and the United Kingdom are parties to this Convention. The following EU Member States are not parties: Belgium, Denmark, Greece, Ireland, Luxembourg, Netherlands and Sweden (https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/132).

Television, to restrict reception and retransmission of audiovisual media services originating from the United Kingdom.[9]

The website of the Commission on audiovisual media services (https://ec.europa.eu/digital-single-market/en/policies/audiovisual-media-services) provides general information on the rules concerning audiovisual media services in the Union. These pages will be updated with further information, where necessary.

European Commission
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[9] Under its Articles 13, 16 and 17, the Audiovisual Media Services Directive lays down specific rules for the promotion of distribution and production of European works, such as minimum quota reserved for European works. Article 1(1)(n) of the current Audiovisual Media Services Directive considers as "European" works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of paragraph 3 of the above mentioned Article. Therefore, pursuant to the current version of the Directive and without prejudice to any change to the legal framework, works originating in United Kingdom are considered European works even after the withdrawal date for the purpose of fulfilling the quotas under Article 13, 16 and 17 of the Directive.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

Brussels, 28 March 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF COPYRIGHT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, persons concerned are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of copyright will no longer apply to the United Kingdom.

1. THE MAIN INTERNATIONAL (MULTILATERAL) COPYRIGHT TREATIES WILL GOVERN THE EU-UNITED KINGDOM RELATIONSHIP IN THE FIELD OF COPYRIGHT

The United Kingdom and the EU are contracting parties to many of the main international (multilateral) copyright treaties, such as the World Intellectual Property Organization (WIPO) Copyright Treaty (WCT), the WIPO Performances and Phonograms Treaty (WPPT)[4] and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).[5] [6]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 http://www.wipo.int/treaties/en/

5 https://www.wto.org/english/tratop_e/trips_e/trips_e.htm

In accordance with the obligations under these agreements and in particular the principles of 'national treatment' and 'most favoured nation' of nationals and legal persons that meet the criteria of eligibility for protection within the scope of the TRIPS Agreement, the international framework will govern as of the withdrawal date:

- the protection of copyright and related rights (e.g. exclusive rights of reproduction, distribution, rental, communication and making available for authors; and where applicable also to holders of related rights, such as phonogram producers, performers and broadcasting organisations);
- the term of protection of copyright and certain related rights;
- obligations concerning technological protection measures and rights management information;
- databases, except as set out below;
- computer programs;
- semiconductor topographies;
- enforcement of copyright (as one of the intellectual property rights in part 3 of TRIPS), including border measures.

It should be noted that the multilateral international agreements mentioned above do not provide for the same type or level of protection in relation to certain rights and where applicable exceptions or limitations to those rights as that set out today in the EU copyright acquis. In addition, the EU acquis provides for certain forms of *lex specialis* or particular cross-border measures for the benefit of rightholders or users in the internal market and/or the management of rights which have no counterpart in the international conventions.

Against this background, the withdrawal of the United Kingdom will have in particular the following consequences in the field of the copyright and related rights:

2. SPECIFIC CONSEQUENCES IN THE FIELD OF COPYRIGHT

- **Broadcasters:** Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission[7] provides *inter alia* that the act of communication to the public by satellite occurs solely in the Member State where the broadcast signals are introduced, thus localising the copyright relevant acts for the purpose of licensing. Consequently, in order to broadcast a work or other subject matter, broadcasters only have to clear rights in the Member State where the signal is introduced. As of the withdrawal date,

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[6] The United Kingdom is furthermore a party to the Berne Convention for the Protection of Literary and Artistic Works, which the EU is not. However, the EU is required pursuant to Article 1(4) WCT to apply Article 1-21 and the Appendix of the Berne Convention.

[7] Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, OJ L 248, 6.10.1993, p. 15.

broadcasters in the United Kingdom will no longer benefit from the mechanism provided for by the Directive when providing cross-border satellite broadcasting services to EU customers and they will have to clear rights in all Member States where the signal reaches. Correspondingly, broadcasters in the EU will no longer be able to benefit from the mechanism provided for by the Directive when providing cross-border satellite broadcasting services to customers in the United Kingdom and they will have to secure clearance of the rights of all relevant rightholders if they wish to broadcast to the United Kingdom.

- **Collective Rights Management (online rights in musical works):** Article 30 of Directive 2014/26/EU on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market[8] provides for an obligation on a collective management organisation to represent another collective management organisation for multi-territorial licensing (for the online rights in musical works) in certain cases. As of the withdrawal date, EU collective management organisations will not be subject to the obligation to represent collective management organisations based in the United Kingdom for multi-territorial licensing in accordance with Article 30 of Directive 2014/26/EU and vice versa.

- **Orphan Works**: Certain cultural institutions in the EU can benefit from a system of mutual recognition of orphan works in Directive 2012/28/EU on certain permitted uses of orphan works.[9] This system allows them to digitise and make a work available online in all Member States once it is recognised as an orphan work in one Member State.

  As of the withdrawal date, the mechanism of mutual recognition provided for by Directive 2012/28/EU will no longer apply between the United Kingdom and the EU. Consequently, orphan works which have been recognised in the United Kingdom by the withdrawal date will no longer be recognised in the EU under Directive 2012/28/EU and the same will apply for orphan works recognised in the EU, as the system of mutual recognition under Directive 2012/28/EU will no longer be available in the United Kingdom. As a consequence, this means that the uses of orphan works from the United Kingdom allowed under the Directive, notably as regards making them available online, will no longer be allowed for cultural institutions in the EU and vice versa.

- **Access to published works for persons who are blind, visually impaired or otherwise print-disabled:** Directive (EU) 2017/1564 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled[10]

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[8] Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market, OJ L 84, 20.3.2014, p. 72.

[9] Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works, OJ L 299, 27.10.2012, p. 5.

[10] Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled, OJ L 242, 20.9.2017, p. 6. This Directive must be transposed by 11 October 2018.

introduces a mandatory exception for the benefit of persons who are blind, visually impaired or otherwise print-disabled and authorised entities operating on behalf of these persons. The Directive furthermore provides that such authorised entities may rely on the exception for a beneficiary person or another authorised entity in other Member States and that beneficiary persons and authorised entities may have access to accessible format copies from an authorised entity established in any Member State.

As of the withdrawal date, persons in the United Kingdom will no longer be able to obtain accessible format copies from authorised entities in the EU under the framework provided for by Directive (EU) 2017/1564. Conversely, authorised entities and beneficiary persons in the EU will not be able to obtain accessible format copies from authorised entities in the United Kingdom either.

The exchange of accessible format copies between the EU and third countries that have ratified the Marrakesh Treaty[11] is governed by Regulation (EU) 2017/1563[12] on the cross-border exchange between the EU and third countries of accessible format copies of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled. In this context it is important to note, that the United Kingdoms is currently not a party to the Marrakesh Treaty.

- **Online content Portability**: Regulation (EU) 2017/1128 on cross-border portability of online content services in the internal market[13] establishes that the provision of an online content service to a subscriber who is temporarily present in a Member State, as well as the access to and the use of that service by the subscriber, shall be deemed to occur solely in the subscriber's Member State of residence.

  As of the withdrawal date, persons residing in the United Kingdom will no longer benefit from their digital content subscriptions when travelling to the EU; and a provider of online content services established in the United Kingdom will need to comply with the rules of the relevant EU Member State or States where it wishes to offer services to its subscribers – including the need to clear all relevant rights for that or those Member States.

- ***Sui generis* database right:** Article 7 of Directive 96/9/EC on the legal protection of databases[14] grants under certain conditions protection to the makers of databases in the EU Member States ('sui generis database right'). Article 11 of Directive 96/9/EC restricts the beneficiaries of protection under the sui generis right to the database

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[11] Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.

[12] Regulation (EU) 2017/1563 of the European Parliament and of the Council of 13 September 2017 on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled, OJ L 242, 20.9.2017, p. 1. The Regulation will apply as of 12 October 2018.

[13] Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market, OJ L 168, 30.6.2017, p. 1. This Regulation will apply from 1 April 2018.

[14] Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases, OJ L 77, 27.3.1996, p. 20.

makers (or rightholders) that are nationals of an EU Member State, have their habitual residence in the territory of the EU or are companies/firms formed in accordance with the law of an EU Member State (and having their registered office, central administration or principal place of business within the EU).

As of the withdrawal date, United Kingdom nationals (unless they have their habitual residence in the EU) and companies/firms formed in accordance with the law of the United Kingdom will no longer be entitled to maintain or obtain a sui generis database right in respect of databases in the EU.[15] Conversely, EU Member States nationals and companies/firms will not be entitled to maintain or obtain a sui generis database right in respect of databases in the United Kingdom.

The website of the European Commission regarding the Digital Single Market provides general information concerning copyright: https://ec.europa.eu/digital-single-market/en/policies/copyright. These pages will be updated with further information, where necessary.

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Directorate-General Communications Networks, Content and Technology

[15] For databases protected before the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on Intellectual property rights (including geographical indications) are available here: https://ec.europa.eu/commission/publications/position-paper-intellectual-property-rights-including-geographical-indications_en.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATION NETWORKS, CONTENT AND TECHNOLOGY

Brussels, 7 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU LEGISLATION IN THE FIELD OF ELECTRONIC COMMERCE AND NET NEUTRALITY

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, EU legislation in the field of the provision of information society services, in particular Directive 2000/31/EC (Directive on electronic commerce)[4] and Regulation (EU) 2015/2120 on open internet,[5] will no longer apply to the United Kingdom. This has in particular the following consequences:

1. COUNTRY-OF-ORIGIN PRINCIPLE (ELECTRONIC COMMERCE)

In accordance with the internal market clause (also referred to as country-of-origin principle) of Article 3 of the Directive on electronic commerce, a provider of information

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), OJ L 178, 17.7.2000, p. 1.

[5] Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access, OJ L 310, 26.11.2015.p. 1.

society services[6] is subject to the law of the EU Member State in which it is established, and not to the various laws of the EU Member States where its services are provided, although the clause does allow for certain exemptions. The clause is complemented by a rule prohibiting prior authorisation schemes and similar requirements which apply specifically to providers of these services (Article 4 of the Directive on electronic commerce). Furthermore, the Directive sets out certain basic requirements on information to be provided to users, online contracting and online commercial communications (Articles 5-11 of the Directive on electronic commerce). The liability of intermediary service providers is restricted in certain cases (Section 4 of the Directive on electronic commerce)

As of the withdrawal date, information society service providers established in the United Kingdom and providing information society services into the EU will no longer be able to rely on the country-of-origin principle and said rule precluding prior authorisation schemes. The basic information requirements set out in the Directive on electronic commerce no longer apply to them. As a consequence, companies established in the United Kingdom providing information society services into the EU will fall under the jurisdiction of each individual EU-27 Member State. Each EU-27 Member State will be entitled to subject the provision of such services to its national rules, including, for instance, prior authorisation schemes or rules on information to be provided to users. Moreover, the limitations of liability set out in the Directive on electronic commerce no longer apply to intermediary service providers established in the United Kingdom.

2. NET NEUTRALITY

Regulation (EU) 2015/2120 on open internet provides for common rules on equal and non-discriminatory treatment of traffic in the provision of internet access services and related end-users' rights. While these rules will, as of the withdrawal date, no longer apply to the United Kingdom, they will continue to govern the provision of internet access services into the EU-27, no matter where the information society service provider is established.

The website of the Commission https://ec.europa.eu/digital-single-market/en/e-commerce-directive provides general information concerning e-commerce and information society services. This page will be updated with further information on the United Kingdom's withdrawal, where necessary.

European Commission
Directorate-General for Communication Networks, Content and Technology

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[6] Information society service is defined as "*any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services*" (see Article 1(1)(b) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services OJ L 241, 17.9.2015, p. 1).

Examples of services covered by the Directive on electronic commerce include online information services (such as online newspapers), online selling of products and services (books, financial services and travel services), online advertising, professional services (lawyers, doctors, estate agents), entertainment services and basic intermediary services (access to the Internet and transmission and hosting of information). These services include also services provided free of charge to the recipient and funded, for example, by advertising or sponsorship.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

Brussels, 12 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF ELECTRONIC COMMUNICATIONS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of electronic communications no longer apply to the United Kingdom. This regulatory framework includes[4] the provisions of the Framework Directive,[5] the related Specific Directives,[6] the

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Please note that this list is indicative of the provisions primarily covered by this Notice. It is intended for information purposes only and is therefore neither exhaustive nor binding.

5 Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ L 108, 24.4.2002, p. 33.

6 Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 (Authorisation Directive), OJ L 108, 24.2.2002, p. 21; Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 (Access Directive), OJ L 108, 24.2.2002, p.7; Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 (Universal Service Directive), L 108, 24.2.2002, p. 51; and Directive 2002/58/EC of the European Parliament and of the Council of 12 July

Radio Spectrum Decision,[7] the BEREC Regulation,[8] the Roaming Regulation,[9] the Telecoms Single Market Regulation,[10] as well as a number of Commission Recommendations on related matters concerning the identification of markets which are susceptible to regulatory intervention[11] and the proposed methodology for setting termination rates for voice calls.[12]

This has in particular the following consequences in the different areas of electronic communications:

1. GENERAL AUTHORISATION

Providers established in at least one EU Member State enjoy the right to provide electronic communications networks and services in all other Member States without being required to have an establishment there. They can start providing networks and services without any formal licensing process and are subject only to a "general authorisation" in each Member State where they provide networks or services (Article 3 of the Authorisation Directive). The general authorisation comprises rights and obligations for the provision of electronic communications networks and services and Member States may only request a simple notification, without any standstill obligation (Article 4 of the Authorisation Directive).

As of the withdrawal date, providers of electronic communications networks and/or services established in the United Kingdom will cease to benefit from the general authorisation regime within the EU-27 Member States. Hence, EU-27 Member States may impose additional authorisation requirements on providers established in the United Kingdom. Furthermore, providers established in the United Kingdom will cease to have the right to request providers authorised in the EU-27 Member States which are not 'major suppliers' (within the meaning of the GATS Reference Paper on

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2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

7 Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision), OJ L 108, 24.4.2002, p. 1.

8 Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office, OJ L 337, 18.12.2009, p. 1.

9 Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union, OJ L 172, 30.6.2012, p. 10.

10 Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access, OJ L 310, 26.11.2015, p. 1.

11 Commission Recommendation 2014/710/EU of 9 October 2014 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Recommendation on Relevant Markets), OJ L 295, 11.10.2014, p. 79.

12 Commission Recommendation 2009/396/EC of 7 May 2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU, (Recommendation on Termination Rates), OJ L 124 20.5.2009, p. 67.

Telecommunications Services) to negotiate access and interconnection. Moreover, they will not have the right to request or be subject to the dispute resolution procedure within the EU, neither for disputes within a Member State nor for cross-border access disputes.

2. FIXED AND MOBILE TERMINATION RATES

As of the withdrawal date, the EU's regulatory framework leading to low wholesale voice termination rates[13] will no longer apply to EU service providers as regards calls between the EU and the United Kingdom. This may lead to increases in the wholesale termination rates for calls from the EU to the United Kingdom and ultimately to increased retail tariffs for such calls.

3. ROAMING

As of the withdrawal date the United Kingdom becomes a third country for the purposes of EU rules on roaming (Regulation (EU) 531/2012).

Providers of roaming services to roaming customers (hereafter 'roaming providers') operating in the EU:

- will no longer benefit, when requesting wholesale roaming access, from the obligation of mobile network operators operating in the United Kingdom to meet all reasonable requests for providing wholesale roaming access (Article 3 of Regulation (EU) 531/2012);
- will no longer benefit from the EU rules on maximum wholesale roaming charges that visited network operators operating in the United Kingdom may charge for the provision of wholesale roaming services within the EU (Articles 7, 9, 12 of Regulation (EU) 531/2012).

Roaming customers of roaming providers operating in the EU:

- will no longer benefit from the retail obligation of their roaming provider not to levy any surcharge in addition to the domestic retail price on them for the use in the United Kingdom of roaming services (calls made or received, SMS messages sent and data services), subject to fair use (Article 6a of Regulation (EU) 531/2012); but
- will continue to benefit from the transparency obligations laid down in Article 14 of Regulation (EU) 531/2012 (voice and SMS) and Article 15 of Regulation (EU) 531/2012 (data services) when travelling to the United Kingdom.

Roaming providers operating in the United Kingdom:

[13] Wholesale termination rates are the charges paid between operators to deliver the calls to their customers. Wholesale termination rates are addressed in a Commission Recommendation of 2009, which recommends a costing methodology for setting regulated termination rates (Commission Recommendation 2009/396/EC of 7 May 2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU, OJ L 124, 20.5.2009, p. 67). Despite the non-binding nature of the Commission Recommendation of 2009, it is followed by most Member States and the Court of Justice has confirmed that a national competent authority may depart from a recommended approach only where it appears to the national competent authority, in its assessment of a given situation, that the recommended approach is not appropriate to the specific national circumstances and has to give a reasoned justification for its position. See the judgment in Case C‑28/15, paragraph 38.

- will no longer benefit, when requesting wholesale roaming access, from the obligation of mobile network operators operating in the EU to meet all reasonable requests for providing wholesale roaming access (Article 3 of Regulation (EU) 531/2012);
- will no longer benefit from the EU rules on maximum wholesale roaming charges that visited network operators operating in the EU may charge for the provision of wholesale roaming services within the EU (Articles 7, 9, 12 of Regulation (EU) 531/2012).

Roaming customers of roaming providers operating in the United Kingdom:

- will no longer benefit from the EU rules on the retail obligation of their roaming provider not to levy any surcharge in addition to the domestic retail price on them for the use within the EU of roaming services (calls made or received, SMS messages sent and data services), subject to fair use (Article 6a of Regulation (EU) 531/2012); and
- will no longer benefit from the EU rules on the transparency obligations laid down in Article 14 of Regulation (EU) 531/2012 (voice and SMS) and Article 15 of Regulation (EU) 531/2012 (data services) when travelling to the EU.

The website of the Commission on the Digital Single Market provides general information concerning the Commission proposal for a Directive establishing a European Electronic Communications Code (https://ec.europa.eu/digital-single-market/en/news/proposed-directive-establishing-european-electronic-communications-code) and roaming (https://ec.europa.eu/digital-single-market/en/roaming).

European Commission
Directorate-General for Communications networks, Content and Technology

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

Brussels, 21 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF ELECTRONIC IDENTIFICATION AND TRUST SERVICES FOR ELECTRONIC TRANSACTIONS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders, in particular providers of trust services, providers of notified electronic identification schemes or parties relying on notified electronic identification schemes are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market[4] no longer applies to the United Kingdom. This has in particular the following consequences:

1. TRUST SERVICES

In accordance with Article 4 of Regulation (EU) No 910/2014 there must be no restriction on the provision of trust services in the territory of a Member State by a trust

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] Regulation (EU) N°910/2014 of the European Parliament and of the Council of 23 July 2014 of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market, OJ L 257, 28.8.2014, p. 73.

service provider established in another Member State for reasons that fall within the fields covered by that Regulation. In accordance with Article 14 of Regulation (EU) No 910/2014 "qualified trust services" can only be provided by EU-based trust service providers or by trust service providers established in a third country which has an international agreement with the EU on the recognition of trust services.

As of the withdrawal date, trust service providers established in the United Kingdom will be third country trust service providers for the purposes of Regulation (EU) No 910/2014. They will not benefit from Article 4 of Regulation (EU) No 910/2014. Additionally, trust services provided by trust service providers established in the United Kingdom will not be considered as "qualified trust services" in the EU.

2. ELECTRONIC IDENTIFICATION SCHEMES

In accordance with Article 6 of Regulation (EU) No 910/2014, when an electronic identification using an electronic identification means and authentication is required under national law or by administrative practice to access a service provided by a public sector body online in one Member State, the electronic identification means issued in another Member State shall be recognised in the first Member State for the purposes of cross-border authentication for that service online, provided that certain conditions set out in that Article are met: notably, that the electronic identification means issued under an electronic identification scheme included in the list published by the Commission pursuant to Article 9 of Regulation (EU) No 910/2014.

As of the withdrawal date, electronic identification schemes which may have been notified by the United Kingdom before the withdrawal date pursuant to Article 9 of Regulation (EU) No 910/2014 will no longer be recognised by EU-27 Member States pursuant to Article 6 of Regulation (EU) No 910/2014.

The website of the Commission on Trust Services and electronic identification (https://ec.europa.eu/digital-single-market/en/policies/trust-services-and-eidentification) provides general information concerning Regulation (EU) No 910/2014. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Communications Networks, Content and Technology

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

Brussels, 28 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON .EU DOMAIN NAMES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, the .eu Top Level Domain Registry, accredited .eu Registrars, .eu domain names registrants, applicants for .eu domains names and generally stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, the EU regulatory framework for the .eu Top Level Domain[4] will no longer apply to the United Kingdom as from the withdrawal date. This has in particular the following consequences:[5]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain, OJ L 113, 30.4.2002, p.1; Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration, OJ L 162, 30.4.2004, p.40; and Commission implementing Decision of 11 April 2014 on the designation of the .eu Top Level Domain Registry, OJ L 109, 12.4.2004, p. 41.

5 Regulation (EC) No 733/2002 does not require.eu domain names registrars to be established in the EU. However, other applicable EU rules may affect them. For more information, for instance on electronic

1. REGISTRATION AND RENEWAL OF DOMAIN NAMES

In accordance with Article 4(2)(b) of Regulation (EC) No 733/2002, the following persons are eligible to register .eu domain names: (i) undertakings having their registered office, central administration or principal place of business within the EU; (ii) organisations established within the EU (without prejudice to the application of national law); and (iii) natural persons resident within the EU.

As of the withdrawal date, *undertakings* and *organisations* that are established in the United Kingdom but not in the EU and *natural persons* who reside in the United Kingdom will no longer be eligible to register .eu domain names or, if they are .eu registrants, to renew .eu domain names registered before the withdrawal date.

Accredited .eu Registrars will not be entitled to process any request for the registration of or for renewing registrations of .eu domain names by those undertakings, organisations and persons.

2. REVOCATION OF REGISTERED DOMAIN NAMES

Where, as of the withdrawal date and as a result of the withdrawal of the United Kingdom, a holder of a domain name does no longer fulfil the general eligibility criteria pursuant to Article 4(2)(b) of Regulation (EC) 733/2002, the Registry for .eu will be entitled to revoke such domain name on its own initiative and without submitting the dispute to any extrajudicial settlement of conflicts in accordance with point (b) of Article 20, first subparagraph, of Commission Regulation (EC) No 874/2004.

3. RIGHTS THAT CAN BE INVOKED IN PROCEDURES FOR THE REVOCATION OF SPECULATIVE AND ABUSIVE REGISTRATIONS

According to Article 21(1) of Commission Regulation (EC) 874/2004, a registered domain name shall be subject to revocation, using an appropriate extra-judicial or judicial procedure, where that name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Union law and where the registered domain name was the subject of speculative and abusive registration as described in that Article.

As of the withdrawal date, rights recognised or established by the United Kingdom, but not by EU-27 Member States or by the Union, can no longer be invoked in procedures under Article 21(1). By contrast, rights recognised by the Member States or by the Union, arising from international instruments, like rights arising from Article 6bis of the Paris Convention for the Protection of Industrial Property and Article 16(2) and (3) of the Agreement on Trade-related Aspects of Intellectual Property Rights, are not affected.

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commerce and net neutrality, please refer to the relevant "Notices to stakeholders" here: https://ec.europa.eu/info/brexit/brexit-preparedness_en.

4. APPLICABLE LAW IN AGREEMENTS BETWEEN ACCREDITED .EU REGISTRARS AND .EU REGISTRANTS

In accordance with Article 5, first subparagraph, of Commission Regulation (EC) No 874/2004, agreements between the Registrar and the registrant of a .eu domain name cannot designate, as applicable law, a law other than the law of a EU Member State, nor can they designate a dispute-resolution body, unless selected by the .eu Top Level Domain Registry pursuant to Article 23 of that Regulation, nor an arbitration court or a court located outside the EU.

Should any such agreement designate as applicable law the law of the United Kingdom, the Registrar and registrant concerned are advised to amend the relevant agreement accordingly so that it complies with Article 5, first subparagraph, of Regulation (EC) No 874/2004 as of the withdrawal date.

The websites of the Commission on the EU rules for the digital single market (https://ec.europa.eu/digital-single-market/en/the-top-level-domain-.eu and http://ec.europa.eu/ipg/basics/urls/doteu_en.htm) provide general information on the rules concerning the Top Level Domain .eu. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Communications Networks, Content and Technology

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATION NETWORKS, CONTENT AND TECHNOLOGY

Brussels, 21 March 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU LEGISLATION IN THE FIELD OF GEO-BLOCKING

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, Regulation (EU) 2018/302[4] on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market will no longer apply to the United Kingdom. This has in particular the following consequences.

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market, OJ L 60 I, 2.3.2018, p. 1.

1. CUSTOMERS

From its date of application (3 December 2018), Regulation (EU) 2018/302 prohibits discrimination based on customers' nationality, place of residence or place of establishment, including unjustified geo-blocking, in certain cross-border transactions between a trader and a customer in relation to the sales of goods and the provision of services within the EU. In particular, it provides for the following measures protecting customers[5]:

- ban of discriminatory blocking or limiting customers' access to traders' online interfaces (e.g. a website) and redirecting them to another online interface without the customer's prior consent (Article 3);

- prohibition on traders to apply, in certain defined situations, on a discriminatory basis different conditions of access for customers to goods and services (Article 4; informally known as "shop like a local" principle);

- non-discrimination for reasons related to payment (Article 5).

As of the withdrawal date, natural persons residing in the United Kingdom (unless they have a nationality of a Member State) or undertakings established in the United Kingdom will not be able to benefit from Regulation (EU) 2018/302:

- Firstly, such persons or undertakings who wish to access websites in the EU will not benefit from the aforementioned ban related to access to traders' online interfaces. This means that a trader could block, limit or redirect those customers to specific versions of his/her website which might be different from the one that the customers initially sought to access.

- Secondly, such persons or undertakings will not have the guarantee to be able to "shop like a local" in the EU in the situations covered by Article 4 of the Regulation, including benefitting from the same prices and conditions relating to the delivery of goods and services as the locals (i.e. the customers of the trader's home Member State). For example, the off-line and on-line sales of goods and services, such as goods delivered or picked up in the EU territory, tickets for sports events or amusement parks in Member States, and the sale of electronically supplied services, such as hosting services, are areas where those customers will be affected.

- Thirdly, such persons or undertakings using payment means from the United Kingdom will not be protected against traders applying different conditions for a payment transaction from the ones offered to EU customers, or refused to complete the purchase for reasons related to payment, when (wanting to) pay electronically for goods or services.

2. TRADERS

Regulation (EU) 2018/302 applies to all traders operating within the EU, regardless of whether those traders are established in the EU or in a third country (recital 17).

[5] Both consumers and businesses.

Therefore, as of the withdrawal date, traders who are established in the United Kingdom and offer their goods or services to customers in the EU will continue to be bound by the rules established by the Regulation (EU) 2018/302 in respect of those activities.

The website of the Commission https://ec.europa.eu/digital-single-market/en/geo-blocking-digital-single-market provides general information concerning geo-blocking. This page will be updated with further information on the United Kingdom's withdrawal, where necessary.

European Commission
Directorate-General for Communication Networks, Content and Technology

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMMUNICATIONS NETWORKS, CONTENT AND TECHNOLOGY

Brussels, 12 March 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF SECURITY OF NETWORK AND INFORMATION SYSTEMS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders and particularly the operators potentially subject to the obligations of Directive (EU) 2016/1148 on the security of network and information systems[4] are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of security of network and

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union

information systems no longer apply to the United Kingdom.[5] This has in particular the following consequences on **digital service providers.**[6]

Article 16 of Directive (EU) 2016/1148 imposes on digital service providers some requirements on security and incident notification. In accordance with Article 17 of Directive (EU) 2016/1148, these requirements are subject to *ex post* supervisory control by the relevant national competent authorities as understood under Article 8 of Directive (EU) 2016/1148. Article 18 of Directive (EU) 2016/1148 provides for the rules on the jurisdiction for such supervisory activity:

- Where a digital service provider **is established in the Union**, it will be, pursuant to Article 18(1) of Directive (EU) 2016/1148, subject to the jurisdiction of the Member State where it has its main establishment, which in principle corresponds to the place where the provider has its head office in the Union.[7]

- Where a digital service provider, **is not established in the Union but offers digital services into the Union**, it must, in accordance with Article 18(2) of Directive (EU) 2016/1148, designate a representative in the Union. Pursuant to Article 4(10) of Directive (EU) 2016/1148, a representative means any natural or legal person established in the Union explicitly designated to act on behalf of a digital service provider not established in the Union with regard to the latter's obligations under this Directive. The designation of a representative by the digital service provider shall be without prejudice to legal actions which could be initiated against the digital service provider itself, as provided for under Article 18(3) of Directive (EU) 2016/1148.

As of the withdrawal date, a digital service provider subject to the jurisdiction of the United Kingdom before the withdrawal date because its main establishment in the EU was in the United Kingdom may be subject to the following:

- If the digital service provider maintains one or several establishments in the EU27 Member States, it will be deemed to be under the jurisdiction of the EU27 Member State where it has its main establishment in the EU27, thus effectively resulting in a change of competent authority;
- If the digital service provider is no longer established in the EU27 but offers digital services into the EU27, it will be subject to the obligation to designate a representative in an EU27 Member State in accordance with Article 18(2), as described above.

Moreover, a digital service provider neither established in the EU27 nor in the United Kingdom but subject to the jurisdiction of the United Kingdom before the withdrawal

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5 Member States are required to transpose the Directive (EU) 2016/1148 by 9 May 2018. They are also required to identify, by 9 November 2018, the Operators of Essential Services active in the sectors of energy, transport, banking, financial market infrastructures, health, drinking water supply and distribution and digital infrastructure (cf. Article 5 for this obligation and Article 4(4) for a definition of Operators of Essential Services.

6 Directive (EU) 2016/1148 defines 'digital service provider' as any legal person that provides a digital service (cf. Article 4(6)).
The digital services covered by the Directive are online marketplace, online search engine and cloud computing services (cf. Article 4(5) and Annex III of Directive (EU) 2016/1148).

7 See also Recital (64) of Directive (EU) 2016/1148.

date because it had designated a representative in the United Kingdom in accordance with Article 18(2) will, as of the withdrawal date, be subject to the obligation to designate a representative in an EU27 Member State where services are offered by that digital service provider in accordance with Article 18(2).

Consequently, the national competent authority, as understood under Article 8 of Directive (EU) 2016/1148, of that Member State where the digital service provider concerned has either its main establishment or has designated a representative, will receive notifications of incidents taking place within the Union and will exercise *ex post* supervisory control.

The website of the Commission on cyber-security (https://ec.europa.eu/digital-single-market/en/policies/cybersecurity) provides general information concerning Directive (EU) 2016/1148. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Communications Networks, Content and Technology

Transnational workers council

EUROPEAN COMMISSION
DIRECTORATE-GENERAL EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION

Brussels, 13 March 2019
REV2 – replaces the Notice REV1
published on 28 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON EUROPEAN WORKS COUNCILS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[3] as of the withdrawal date, the EU rules on information and consultation of workers at transnational level, and in particular, Directive 2009/38/EC on European Works Councils[4] will no longer apply to the United Kingdom. This has in particular the following consequences:[5]

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1 In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

2 A third country is a country not member of the EU.

3 Cf. Part four of 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 (OJ, C 66 I, 19.2.2019, p. 1).

4 Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast), OJ L 122, 16.5.2009.

5 This notice does not address issues of European company law, and in particular the consequences of the withdrawal of the United Kingdom as regards European company law forms. For these matters,

1. THRESHOLDS FOR APPLYING DIRECTIVE 2009/38/EC

Directive 2009/38/EC sets out the conditions for setting up European Works Councils as well as their functioning and potential dissolution. In particular, Article 2 of Directive 2009/38/EC defines as a "Community-scale undertaking" any undertaking with at least 1 000 employees within the Member States and at least 150 employees in each of at least two Member States". A "Community-scale group of undertakings" designates a group of undertakings with the following characteristics:

- at least 1 000 employees within the Member States,
- at least two group undertakings in different Member States,

and

- at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State

As of the withdrawal date, for the purpose of determining whether there is a Community-scale undertaking or a Community-scale group of undertakings to which Directive 2009/38/EC applies, the United Kingdom will no longer be counted as a Member State and employees in the United Kingdom will no longer count as employees within the Member States.

As a consequence, should the relevant thresholds no longer be met due to the United Kingdom's withdrawal, a European Works Council, even if already established, will no longer be subject to the rights and obligations stemming from the application of Directive 2009/38/EC. That works council may continue to function under the relevant national law, but not as a European Works Council in the meaning of Directive 2009/38/EC.

Since Directive 2009/38/EC allows for the participation of representatives from third countries in European Works Councils[6], representatives from the United Kingdom will be able to take part in European Works Councils, where the relevant agreement referred to in Article 6 of Directive 2009/38/EC so provides.

The withdrawal of the United Kingdom may also impact the duty on the part of the central management to initiate negotiations for the establishment of a European Works Council or an information and consultation procedure which presupposes a written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States (Article 5(1) of Directive 2009/38/EC).

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reference is made to the N*otice to stakeholders - Withdrawal of the United Kingdom and EU rules on company law* (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

[6] See Article 1(6) read together with Article 6(2)(a) of Directive 2009/38/EC.

2. LOCATION REQUIREMENTS FOR CENTRAL MANAGEMENT/CENTRAL MANAGEMENT'S REPRESENTATIVE

According to Article 4(1),(2) of Directive 2009/38/EC, the central management or the central management's representative agent have to be situated in the EU. Therefore, as of the withdrawal date, for those European Works Councils for which the thresholds in Article 2 of Directive 2009/38/EC continue to be met and which have their central management or their representative agent in the United Kingdom, the role of central management will be transferred to a Member State. For such European Works Councils, unless they designate a new representative agent in a Member State, this role will be assumed by the establishment or group undertaking employing the greatest number of employees in a Member State, which will become the 'deemed central management' pursuant to Article 4(2) of Directive 2009/38/EC. This responsibility is transferred automatically and immediately as of the withdrawal date.

3. APPLICABLE LAW TO THE AGREEMENT REFERRED TO IN ARTICLE 6 OF DIRECTIVE 2009/38/EC

The law applicable to the agreement referred to in Article 6 of Directive 2009/38/EC is that of the Member State where the central management or the 'deemed central management' or the central management's representative agent are situated in the EU.

Where the law of the United Kingdom has applied to an existing European Works Council, as of the withdrawal date the law of a remaining Member State will apply automatically and immediately to ensure that the rights of employees under Directive 2009/38/EC remain enforceable within the Union.

While it is thus not necessary from a legal point of view to amend agreements referring to the legislation of the United Kingdom to remain in conformity with Directive 2009/38/EC, it is highly recommended to amend such agreements and stipulate explicitly the law of a Member State for the sake of clarity and legal certainty (see below, point 5 of this notice).

4. OTHER ASPECTS

The withdrawal of the United Kingdom may also be decisive for:

- the law applicable in order to determine whether an undertaking is "a controlling undertaking" (Article 3(6) of Directive 2009/38/EC);

- the members of the special negotiating body to be elected or appointed in proportion to the number of employees employed in each Member State by the Community-scale undertaking or Community-scale group of undertakings, by allocating in respect of each Member State one seat per portion of employees employed in that Member State amounting to 10 %, or a fraction thereof, of the number of employees employed in all the Member States taken together (Article 5(2)(b) of Directive 2009/38/EC).

5. AGREEMENTS IN ACCORDANCE WITH ARTICLE 6 OF DIRECTIVE 2009/38/EC

According to Article 6 of Directive 2009/38/EC, the setting up and functioning of European Works Councils rely on an agreement negotiated at company level by the social partners. These agreements should take the abovementioned consequences into account.

Article 13 of Directive 2009/38/EC provides for a procedure for amending the agreement. The withdrawal of the United Kingdom may lead to a significant change of the structure of a 'Community-scale undertaking' or a 'Community-scale group of undertakings' in the sense of this provision.

The website of the Commission on labour law (http://ec.europa.eu/social/main.jsp?catId=157) provides general information concerning the field of information and consultation of workers at transnational level. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Employment, Social Affairs and Inclusion

Energy

EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENERGY

Brussels, 27 April 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND THE INTERNAL ENERGY MARKET

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders are reminded of legal repercussions which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of energy market regulation[4] will no longer apply to the United Kingdom. This has in particular the following consequences:

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Directive 2009/72/EC of the European Parliament and the Council of 13 July 2009 concerning common rules for the internal market in electricity, OJ L 211, 14.8.2009, p. 55; Directive 2009/73/EC of the European Parliament and the Council concerning common rules for the internal market in natural gas, OJ L 211, 14.8.2009, p. 94; Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators, OJ L 211, 14.8.2009, p. 1; Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges of electricity, OJ L 211, 14.8.2009, p. 15; Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks, OJ L 211, 14.8.2009, p. 36, Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency, OJ L 326, 8.12.2011, p. 1.

1. COMPENSATION BETWEEN TRANSMISSION SYSTEM OPERATORS (TSOS)

Regulation (EC) No 714/2009[5] sets out the principles for an inter-transmission system operator compensation mechanism and for charges for access to networks.

On the basis of these principles, Commission Regulation (EU) No 838/2010[6] provides that EU TSOs receive compensation for hosting cross-border flows of electricity on their networks. This compensation replaces explicit charges for the use of interconnectors.

Regarding third country imports and exports of electricity, Commission Regulation (EU) No 838/2010[7] provides that a transmission system use fee is to be paid on all scheduled imports and exports of electricity from all third countries which have not adopted an agreement whereby it is applying Union law. As of the withdrawal date this provision will apply to imports of electricity from and exports of electricity to the United Kingdom.

2. INTERCONNECTIVITY

EU gas and electricity market legislation sets out rules on the allocation of interconnection capacity and provides for mechanisms to facilitate their implementation. In particular:

- Commission Regulation (EU) 2016/1719[8] establishes a single platform to allocate TSOs' forward interconnection capacities. It provides a central point of contact to market participant for the booking of long-term transmission capacities across the EU.

- Commission Regulation (EU) 2017/2195[9] establishes the European balancing platforms for the exchange of standard balancing products. As single points of contact they allow EU TSOs to resource balancing energy at short notice from across the borders.

- Commission Regulation (EU) 2015/1222[10] establishes the single day-ahead and intraday coupling of the EU's electricity markets. It assists market participants in

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5 Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges of electricity, OJ L 211, 14.8.2009, p. 15; see notably Articles 13 and 14.

6 Commission Regulation (EU) No 838/2010 of 23 September 2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging, OJ L 250, 24.9.2010, p. 5; see notably Annex A, points 2 and 3.

7 Annex A, point 7, of Commission Regulation (EU) No 838/2010.

8 See Articles 48 to 50 of Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation, OJ L 259, 27.9.2016, p. 42.

9 See Articles 19 to 21 of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing, OJ L 312, 28.11.2017, p. 6.

10 See Chapters 5 and 6 of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management, OJ L 197, 25.7.2015, p. 24.

organising bulk power transactions across EU borders close to delivery time. The single day-ahead and intraday market couplings are the central tools to integrate the EU's internal electricity market. Regulation (EU) 2015/1222 also provides for common requirements for the designation of nominated electricity market operators (NEMOs) in market coupling. Their tasks include receiving orders from market participants, having overall responsibility for matching and allocating orders in accordance with the single day-ahead and intraday coupling results, publishing prices and settling and clearing the contracts resulting from the trades according to relevant participant agreements and regulations. NEMOs are entitled to offer their services in Member States other than those in which they are designated.

As of the withdrawal date, United Kingdom based operators will cease to participate in the single allocation platform for forward interconnection capacity, the European balancing platforms and the single day-ahead and intraday coupling. United Kingdom based NEMOs will become third country operators and will no longer be entitled to carry out market coupling services in the EU.

3. ELECTRICITY AND GAS TRADING

Regulation (EU) 1227/2011[11] prohibits market abuses on EU wholesale power and gas markets. In order to effectively prosecute market abuses, Article 9(1) of Regulation (EU) 1227/2011 requires EU based market participants to register with their national energy regulatory authority. Market participants from third countries are required to register with the national energy regulatory authority of a Member State where they are active.

As of the withdrawal date, market participants based in the United Kingdom will become third country participants. As a consequence, according to Article 9(1) of Regulation (EU) 1227/2011, participants based in the United Kingdom who wish to continue trading EU wholesale energy products as of the withdrawal date will need to register with the national energy regulatory authority of a Member State where they are active. According to Article 9(4) of Regulation (EU) 1227/2011, the registration form has to be submitted prior to entering into a transaction which is required to be reported.

The national regulatory authority registering market participants from the United Kingdom is responsible for ensuring that the enforcement provisions pursuant to Article 13 to 18 of Regulation (EU) 1227/2011 can be effectively applied.

4. INVESTMENTS IN TRANSMISSION SYSTEM OPERATORS

Directive (EU) 2009/72/EC[12] and Directive (EU) 2009/73/EC[13] provide for the certification of TSOs. According to Article 11 of Directive (EU) 2009/72/EC and

[11] Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency, OJ L 326, 8.12.2011, p. 1 (REMIT).

[12] Directive 2009/72/EC of the European Parliament and the Council of 13 July 2009 concerning common rules for the internal market in electricity, OJ L 211, 14.8.2009, p. 55.

Directive (EU) 2009/73/EC, the certification of a TSO which is controlled by a person or persons from a third country is subject to specific rules. In particular, the Directives require Member States and the Commission to assess whether granting certification to the concerned transmission system operator controlled by (a) third country person(s) will put at risk the security of energy supply of the Member State and the EU.

TSOs controlled on the withdrawal date by investors from the United Kingdom are TSOs controlled by persons from a third country. For these TSOs to continue their activity in the EU, they require a certification in accordance with Article 11 of Directive (EU) 2009/72/EC and Directive (EU) 2009/73/EC. Member States may refuse certification where granting certification poses a threat to security of supply of the Member State.

5. CONDITIONS FOR GRANTING AND USING AUTHORISATIONS FOR THE PROSPECTION, EXPLORATION AND PRODUCTION OF HYDROCARBONS

Directive (EU) 94/22/EC[14] sets out the rules for authorising the prospection, exploration and production of hydrocarbons. It ensures *inter alia* that procedures are open to all entities and authorisations should be granted on the basis of objective and published criteria. According to the second sub-paragraph of Article 2(2) of Directive (EU) 94/22/EC, Member States may refuse on grounds of national security to allow access to and exercise of these activities to any entity which is effectively controlled by third countries or third country nationals.

As of the withdrawal date, the second sub-paragraph of Article 2(2) of Directive (EU) 94/22/EC applies where authorisations have been granted or are requested to be granted to an entity which is effectively controlled by the United Kingdom or United Kingdom nationals.

The website of the Commission on energy policy (https://ec.europa.eu/energy/en/home) provides general information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Energy

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13 Directive 2009/73/EC of the European Parliament and the Council concerning common rules for the internal market in natural gas, OJ L 211, 14.8.2009, p. 94.

14 Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons OJ L 164, 30.6.1994, p. 3.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENERGY

Brussels, 7 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF GUARANTEES OF ORIGIN OF ELECTRICITY FROM RENEWABLE ENERGY SOURCES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all stakeholders concerned[4] are reminded of certain legal repercussions stemming from currently applicable rules of Union law which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, Directive 2009/28/EC on the promotion of the use of energy from renewable sources[5] and Directive 2012/27/EU on energy efficiency[6] will no longer apply to the United Kingdom. This has in particular the following consequences in the areas of Guarantees of Origin and Certification of Installers.

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Renewable energy producers, producers of electricity from high efficiency Combined Heat and Power (CHP), issuing bodies and suppliers using Guarantees of Origin, certified installers of small-scale biomass boilers and stoves, solar photovoltaic and solar thermal systems, shallow geothermal systems and pumps.

5 Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources, OJ L 140, 5.6.2009, p. 16.

6 Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, OJ L 315, 14.11.2012, p.1.

1. GUARANTEES OF ORIGIN

In accordance with Article 15(2) of Directive 2009/28/EC, Member States must ensure that a guarantee of origin is issued in response to a request from a producer of electricity from renewable energy sources. The guarantees of origin are issued for the purposes of proving to the final customers the share or quantity of energy from renewable energy sources in an energy supplier's energy mix pursuant to Article 3(9) of Directive 2009/72/EC.[7] In accordance with Article 15(9) of Directive 2009/28/EC, Member States must recognise guarantees of origin issued by other Member States.[8]

Guarantees of origin that have been issued by designated bodies in the United Kingdom in accordance with Article 15(2) of Directive 2009/28/EC will no longer be recognised by the EU-27 Member States as of the withdrawal date.

In accordance with Article 14(10) of Directive 2012/27/EU, Member States must ensure that the origin of electricity produced from high-efficiency cogeneration can be guaranteed according to objective, transparent and non-discriminatory criteria and to this end issue electronically guarantees of origin of a standard size of 1MWh which contain at least the information specified in Annex X. Member States shall mutually recognise their guarantees of origin.[9]

Guarantees of origin that have been issued by designated bodies in the United Kingdom in accordance with Article 14(10) of Directive 2012/27/EU will no longer be recognised by the EU-27 Member States as of the withdrawal date.

2. CERTIFICATION OF INSTALLERS

In accordance with Article 14(3) of Directive 2009/28/EC, Member States shall ensure that certification schemes or equivalent qualification schemes are available for installers of small-scale biomass boilers and stoves, solar photovoltaic and solar thermal systems, shallow geothermal systems and heat pumps, which shall be based on criteria established in Annex IV of said Directive. Member States shall recognise certification awarded by other Member States in accordance with those criteria.

Certifications of installers awarded by the United Kingdom in accordance with Article 14(3) of Directive 2009/28/EC will no longer be recognised by the EU-27 Member States as of the withdrawal date.

The website of the Commission on energy policy (https://ec.europa.eu/energy/en/home) provides general information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Energy

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7 Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity, OJ L 211, 14.8.2009, p. 55.

8 Subject to the exception set out in Article 15(9) of Directive 2009/28/EC, whereby a Member State may refuse to recognise a guarantee of origin only if it has well founded doubts about its accuracy, reliability or veracity.

9 Subject to the exception set out in Article 14(10) of Directive 2012/27/EU.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENERGY

Brussels, 25 September 2018
Replaces the notice published on
28 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND THE EURATOM *ACQUIS*

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement and related repercussions, stakeholders engaged in the nuclear field are reminded of legal repercussions which need to be considered when the United Kingdom becomes a third country.[4] [5]

Subject to any transitional arrangement that may form part of a possible withdrawal agreement, as of the withdrawal date, the overall set of Euratom provisions (i.e. the Euratom *acquis*) no longer applies to the United Kingdom. This has, in particular, the following consequences:[6]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 For certain Euratom-related matters, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU/Euratom's position on nuclear materials and safeguard equipment (Euratom) are available here: https://ec.europa.eu/commission/publications/position-paper-nuclear-materials-and-safeguard-equipment-euratom_en.

5 This notice does not address rules based on the Treaty on the Functioning of the European Union (TFEU).

6 Although not being Euratom *acquis*, it is recalled that nuclear materials, facilities, technologies and equipment fall within the scope of Council Regulation No 428/2009, of 5 May 2009, setting up a

1. COMMON SUPPLY POLICY

Chapter 6 of the Euratom Treaty provides that the supply of ores, source materials and special fissile materials be ensured by means of a common supply policy on the principle of equal access to sources of supply. To this end the Euratom Supply Agency (ESA) has the exclusive right to conclude contracts relating to the supply (imports, exports, and supply within the Community) of ores, source materials and special fissile materials. The statutes of ESA provide that this exclusive right is exercised by the co-signature of ESA to all contracts between parties for relevant material. In specific cases a separate authorisation may be required from the Commission before the ESA co-signs the contract.

As from the withdrawal date, the United Kingdom will cease to participate in the common supply policy. Consequently, as from the withdrawal date, the co-signature by ESA of contracts pertaining to the supply of nuclear materials (and, where applicable, the Commission authorisation for such contracts) in connection with the United Kingdom, will cease to have effect.

As from the withdrawal date, ESA and, where relevant, the Commission, will have to take account of the fact that materials transferred to the United Kingdom will no longer contribute to the Community's security of supply and reach an assessment of the United Kingdom's safeguards regime before its co-signature and, where relevant, authorisation can be given in relation to the aforementioned contracts.

This is without prejudice to the other elements of the contracts which are a matter for the parties to assess.

2. EXPORTS

2.1. Authorisation to dispose production outside the Community

In accordance with Article 59 of the Euratom Treaty, the "conclusion" (co-signature by ESA) of contracts pertaining to the export of EU-produced nuclear materials towards a third country needs to be authorised by the Commission. Such authorisation may not be granted if the recipients of the supplies fail to satisfy the requirement that the general interests of the Community are safeguarded or in the event the terms and conditions of the contracts in question are contrary to the Euratom Treaty.[7]

Community regime for the control of exports, transfer, brokering and transit of dual-use items. For more details, see the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of import/export licences for certain goods*" (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

[7] The Commission authorisation will not be granted if the export of EU-produced nuclear materials towards a third country risks to jeopardise the security of supply, in the medium term, of such materials for EU users, or if the contracts concerned are likely to put at risk the EU nuclear non-proliferation objective.

As from the withdrawal date, this requirement will apply to exports from the EU-27 to the United Kingdom.

2.2. Consent of third parties and other special procedures

Euratom has concluded several Nuclear Cooperation Agreements[8] with third countries. Currently, under these agreements nuclear items (including nuclear materials, equipment and other items usually foreseen in such agreements) can be transferred within the nuclear common market on the territory of the Euratom Community (including to and from UK) without being submitted to a special procedure[9] and/or the prior consent of the Third Country concerned.

As of the withdrawal date, the United Kingdom will be neither part of the common nuclear market, nor will it be covered by these agreements. As a consequence, exports and imports of nuclear items, to and from the United Kingdom, may require a special procedure and/or the prior consent of the Third Country concerned.

3. BASIC SAFETY STANDARDS DIRECTIVE[10]

Council Directive 2013/59/Euratom[11] – the Euratom Basic Safety Standards Directive – applies, inter alia, to the import to and export from the Community of radioactive material (see Article 2(2) a of Council Directive 2013/59/Euratom). As of the withdrawal date, any import of radioactive material from the United Kingdom to the Community and any export of

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8 Agreement between the Government of Australia and the European Atomic Energy Community (Euratom) for cooperation in the peaceful uses of nuclear energy, OJ L 29, 1.2.2012, p. 4; Agreement between the Government of Japan and the European Atomic Energy Community for co-operation in the peaceful uses of nuclear energy, OJ L 32, 6.2.2007, p. 65; Agreement for cooperation in the peaceful uses of nuclear energy between the European Atomic Energy Community and the United States of America, OJ L 120, 20.5. 1996; Accord de coopération entre la Communauté européenne de l'énergie atomique (Euratom) et le gouvernement du Canada concernant les utilisations pacifiques de l'énergie atomique, OJ P 60, 24.11.1959; Agreement between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine for Co-operation in the Peaceful Uses of Nuclear Energy, OJ L 261, 22.9.2006; Agreement for co-operation in the peaceful uses of nuclear energy between the European Atomic Energy Community and the Government of the Republic of Kazakhstan, OJ L 10, 15.1.2009; Agreement for cooperation in the peaceful uses of nuclear energy between the European Atomic Energy Community (Euratom) and the Government of the Republic of Uzbekistan, OJ L 269, 21.10.2003, p. 9.

9 This means for instance that the Supplier State would have to obtain formal governmental assurances from the Recipient State with regard to the peaceful uses of these items and in line with the provisions of the Nuclear Suppliers Group Guidelines for Nuclear Transfers (INFCIRC 254, as revised).

10 For goods (including goods falling within the scope of the Euratom *acquis*) placed on the EU market *before* the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods placed on the market under Union law before the withdrawal date are available here: https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en. Please note that the essential principles of the EU's position on goods build on one single definition of "placing on the market" ("first making available on the market").

11 Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, OJ L 13, 17.01.2014, p.1.

radioactive material from the Community to the United Kingdom will need to comply with the requirements in this Directive. In particular:

- Article 20 of Council Directive 2013/59/Euratom defines specific requirements on undertakings intending to import a consumer product; Article 21 lists products for which import and export are prohibited. In addition, the import of consumer products from third countries is subject to regulatory control and requires notification and licensing (Articles 25 and 28).
- Article 75 of Council Directive 2013/59/Euratom contains specific provisions on building materials which need to be complied with before such materials can be placed on the market in the Community.[12]
- Article 93 of Council Directive 2013/59/Euratom obliges Member States to encourage the establishment of systems to detect the presence of radioactive contamination in metal products imported from third countries.

4. AUTHORISATION/INFORMATION OF SHIPMENTS[13]

As of the withdrawal date, Council Regulation (Euratom) No 1493/93 on shipments of radioactive substances between Member States[14] will cease to apply to shipments between an EU-27 Member State and the United Kingdom.

Council Directive 2006/117/Euratom on the supervision and control of shipments of radioactive waste[15] and spent fuel lays down a Community system of supervision and control of transboundary shipments of radioactive waste and spent fuel. As of the withdrawal date the provisions of Chapter 2 of this Directive on intra-Community shipments will cease to apply to shipments between a Member State and the United Kingdom and Chapter 3 of the Directive on Extra Community Shipments will apply to shipments related to the United Kingdom.

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12 "Building materials" under Council Directive 2013/59 are "construction products" as defined in Regulation (EU) No 305/2011 on harmonised conditions for the marketing of construction products. Articles 13 and 2(21) of Regulation (EU) No 305/2011 lay down specific procedural obligations on importers that have to be fulfilled when placing a construction product from a third country on the Union market. Consequently, when placing on the market building materials imported from the UK, the importers will have to demonstrate the compliance with Article 75 of Directive 2013/59 by following the imports-specific procedure defined in Article 13 of Regulation (EU) No 305/2011, (cf. recitals 17 – 21 of Directive 2013/59).

13 For a movement of goods that has started before and ends on or after the withdrawal date, ("sailing goods"), the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on Customs related matters needed for an orderly withdrawal of the UK from the Union are available here: https://ec.europa.eu/commission/publications/position-paper-customs-related-matters-needed-orderly-withdrawal-uk-union_en.

14 Council Regulation (Euratom) No 1493/93 of 8 June 1993 on shipments of radioactive substances between Member States OJ L 148, 19.6.1993, p. 1.

15 Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel, L 337, 5.12.2006 , p. 21.

Council Directive 2011/70/Euratom establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste[16] sets rules for shipments of radioactive waste from a Member State to a third country with the aim of disposal. As of the withdrawal date, these rules apply for shipments from the EU-27 to the United Kingdom. According to Article 4(4), second subparagraph of Council Directive 2011/70/Euratom these rules include:

- an obligation to inform the Commission prior to shipment to a third country;
- the obligation that the Member States in question needs to have in place an agreement with the third country to use a disposal facility;
- the requirement that the disposal facility needs to be authorised and operating.

5. OTHER ISSUES

As of the withdrawal date, the freedoms guaranteed under the Euratom Treaty, including the free movement of goods and products[17], of skilled staff, or of natural or legal persons wishing to participate in the construction of nuclear installations, will cease to apply in the relations between the United Kingdom and the EU-27.

The website of the Commission on nuclear energy (https://ec.europa.eu/energy/en/topics/nuclear-energy) provides more general information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Energy

[16] Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste, OJ L 199, 2. 8. 2011, p. 48.

[17] As specified by Annex IV to the Euratom Treaty.

REACH

EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENVIRONMENT
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

Brussels, 26 February 2019

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF CHEMICALS REGULATION UNDER REACH

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[3]

Subject to the transition period provided for in the draft Withdrawal Agreement,[4] as of the withdrawal date, 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,[5] will no longer apply to the United Kingdom. This has in particular the following consequences:

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1 In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

2 A third country is a country not member of the EU.

3 This notice complements the comprehensive information provided by the European Chemicals Agency (ECHA) in respect of the withdrawal of the United Kingdom: https://echa.europa.eu/uk-withdrawal-from-the-eu

4 Cf. Part four of the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, as agreed at negotiator's level on 14 November 2018 (https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132_en)

5 OJ L 396, 30.12.2006.

1. REGISTRATION

1.1. Registrations held by a registrant (manufacturer/producer, importer or Only Representative) established in the United Kingdom

According to Article 5 of Regulation (EC) No 1907/2006, as a general rule, substances on their own, in mixtures or in articles manufactured or placed on the EU market in quantities of 1 tonne or more per year have to be registered with the European Chemicals Agency (ECHA). The registrant has to be established in the EU (Article 3(4),(9) and (11) of Regulation (EC) No 1907/2006). Where a manufacturer/producer is established in a third country, that manufacturer/producer may appoint a person acting as his "Only Representative" (Article 8 of Regulation (EC) No 1907/2006). The Only Representative has to comply with the requirements set out in Article 8(2) of Regulation (EC) No 1907/2006, in particular as regards the keeping available of information with regard to quantities and supply of the registered substances.

As of the withdrawal date, a registration held by a registrant (manufacturer/producer, importer or Only Representative) established in the United Kingdom is no longer valid in the EU.

Therefore, manufacturers/producers established in the United Kingdom should

- transfer the registration to a manufacturer or importer in the EU-27; or
- appoint an Only Representative in the EU-27 as registrant for the substance.

ECHA has published detailed guidance on how to transfer a registration prior to the withdrawal of the United Kingdom.[6]

Manufacturers/producers established in a third country and using an Only Representative established in the United Kingdom should transfer the registration to an Only Representative in the EU-27.

Importers established in the United Kingdom and supplying substances, mixtures or articles to the EU-27 should take steps to ensure that the manufacturer/producer in the third country from which they are importing appoint an Only Representative in the EU-27 as registrant for the substance.

1.2. Relevance for downstream users in the EU-27

According to Article 5, a downstream user many only use a substance or mixture in quantities of 1 tonne or more per year that has been registered in accordance with Regulation (EC) No 1907/2006.

6 https://echa.europa.eu/documents/10162/13552/how_to_transfer_uk_reach_registrations_en.pdf/1fb443ce-79de-6596-aae5-3f1033f1a5fb

Moreover, as of the withdrawal date, a substance not registered in accordance with Regulation (EC) No 1907/2006 can no longer be imported into the EU-27 in quantities of 1 tonne or more per year.

Therefore, downstream users should assess whether the substance used is registered by a registrant established in the EU-27. Where this is not the case, the downstream user should:

- Adapt the supply chain accordingly (i.e. identify an alternative supplier);
- Contact the registrant to ensure that the registrant plans to appoint an Only Representative; or
- Register the substance as importers or Only Representatives appointed by the UK registrant.

ECHA has published a list of all substances solely registered by legal entities established in the United Kingdom.[7]

1.3. Joint submissions/lead registrant

Articles 11 and 19 of Regulation (EC) No 1907/2006 require the joint submission of a registration, with a Lead Registrant.

As set out in section 1.1 of this document, as of the withdrawal date, the registration by a person established in the United Kingdom becomes invalid. If this person was the Lead Registrant, the steps set out above (section 1.1.) should be taken. If that Lead Registrant does not intend to take these steps, one of the other members of the joint submissions should take over the role of the Lead Registrant.

2. AUTHORISATION

2.1. Authorisation holders and authorisation applicants established in the United Kingdom

According to Article 56(1) of Regulation (EC) No 1907/2006, the use and placing on the market of substances listed in Annex XIV to that Regulation require an authorisation by the Commission to be placed on the market or used.

According to Article 62(2) in conjunction with Article 3(9), (11) and (13) of Regulation (EC) No 1907/2006, the applicant for an authorisation and the authorisation holder have to be established in the EU.

As of the withdrawal date, an application for an authorisation submitted by, or an authorisation held by a person established in the United Kingdom is no longer valid in the EU.

[7] https://echa.europa.eu/advice-to-companies

Where the application for authorisation or authorisation decision covers uses by actors downstream in the applicant's/authorisation holder's supply chain in accordance with Article 56(2) of Regulation (EC) No 1907/2006, the end of validity of the application/authorisation will also affect those operators established in the EU-27 who will no longer be covered by the application/authorisation.

There are no adopted authorisation decisions falling under this scenario.

Regarding pending authorisation applications falling under this scenario, in order to ensure that the downstream users are covered by the application, the UK-based applicant should ensure that

- the application is transferred before the withdrawal date to a legal entity established in the EU-27. Such a transfer must be the result of a change of legal entity (for example, as the result of a merger, a split or an asset sale), and the person to whom the application is transferred qualifies as manufacturer, importer or downstream user of the substances within the scope of the application for authorisation; or

- the application is transferred to an Only Representative established in the EU-27 with effect on the withdrawal date.

The applicant has to notify ECHA of the legal entity change before the withdrawal date.

2.2. Relevance for downstream users in the EU-27

According to Article 56(2) of Regulation (EC) No 1907/2006, the authorisation may encompass the downstream use of a substance.

Therefore, downstream users subject to authorisation should assess whether the applicant for authorisation covering their use is established in the United Kingdom.

In this case, the downstream user should contact the applicant for authorisation in order to ensure that the latter takes the steps set out under section 2.1 of this notice. Alternatively, where the application for authorisation covering the downstream user's use is a joint application with other EU-27 legal entities, the downstream user may obtain the supply from an EU-based co-applicant.

The dedicated "Brexit-website" of ECHA (https://echa.europa.eu/uk-withdrawal-from-the-eu) as well as the Commission website on Chemicals (http://ec.europa.eu/environment/chemicals/reach/reach_en.htm) as well as the website provide additional information. These pages will be updated with further information, where necessary.

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Environment

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR THE ENVIRONMENT

Brussels, 7 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF THE COMMUNITY ECO-MANAGEMENT AND AUDIT SCHEME (EMAS)

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all interested parties, and especially Eco-Management and Audit Scheme (EMAS) registered organisations, organisations planning to apply for EMAS registration, Competent Bodies, Accreditation Bodies and environmental verifiers, are reminded of legal repercussions, which need to considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, Regulation (EC) No 1221/2009 on the voluntary participation by organisations in a Community eco-management and audit scheme ("the EMAS Regulation")[4] will no longer apply to the United Kingdom.

This has in particular the following consequences:

1. EMAS REGISTRATIONS

- As from the withdrawal date, the EMAS Competent Body designated by the United Kingdom according to Article 11 of the EMAS Regulation will lose its status. It will not be in the position to carry out the tasks described in the EMAS Regulation. It will therefore be removed from the list of EMAS Competent Bodies on the EU EMAS website and its right to access the EMAS register database will be removed.

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] OJ L 342, 22.12.2009, p. 1.

- EMAS registrations awarded by the EMAS Competent Body designated by the United Kingdom are no longer valid and the EMAS logo can no longer be used by organisations as of the withdrawal date.[5]

  Article 3(3) of the EMAS Regulation establishes the possibility of the registration of organisations from outside the European Union (EMAS global registration):[6] Organisations based in the United Kingdom can, as from the withdrawal date, apply for a new EMAS-global registration with an EU-27 EMAS Competent Body or – on the basis of a contractual arrangement between the EMAS registered organisation, the United Kingdom EMAS Competent Body, and one of the EU-27 EMAS Competent Bodies - arrange for a transfer of the registration from the UK EMAS Competent Body to an EU-27 EMAS Competent Body.

  Furthermore, Article 3(2) of the EMAS Regulation establishes the possibility for organisations established in the EU-27 to include sites located in third countries into one single corporate registration.[7]

2. EMAS ENVIRONMENTAL VERIFIERS

- As from the withdrawal date, the EMAS Accreditation Body appointed by the United Kingdom according to Article 28 of the EMAS Regulation will lose its status. It will not be in the position to carry out the tasks described in the EMAS Regulation. It will therefore be removed from the list of EMAS Accreditation and Licensing Bodies on the EU EMAS website.

- As from the withdrawal date, EMAS environmental verifiers accredited by the United Kingdom's Accreditation Body according to Articles 20 and 21 of the EMAS Regulation will lose their status and will not be in the position to carry out the tasks described in the EMAS Regulation.

The website of the Commission on EMAS provides for general information concerning the EMAS registration process and EMAS Competent Bodies. These pages will be updated with further information, where necessary.

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5 Articles 10 and 35(2) of the EMAS Regulation.

6 An application can only be introduced with an EU-27 EMAS Competent Body that is designated by the Member State to provide for and be responsible for the registration of organisations located outside the Community (Article 11(1) of the EMAS Regulation). Currently the following Member States provide for EMAS global registration: Finland, Germany, Spain, Italy, Denmark, Austria, Belgium and Portugal. In addition, the environmental verifier, which will carry out the verification and validate the environmental management system of the organisation, must be accredited or licensed in the Member State where the organisation applies for registration. (Article 3(3) of the EMAS Regulation).

7 According to Article 3(2) of the EMAS Regulation, this requires that (i) the organisation's headquarter or management centre designated for the purpose of the corporate registration, is located in an EU-27 Member State and (ii) the application for corporate registration is made to the Competent Body of that Member State.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR THE ENVIRONMENT

Brussels, 08/02/2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES FOR THE USE OF THE EU ECOLABEL

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel[4] ("the EU Ecolabel Regulation") no longer applies to the United Kingdom. This has in particular the following consequences for goods placed on the EU-27 market as from the withdrawal date:[5]

- As from the withdrawal date the EU Ecolabel Competent Body designated by the United Kingdom according to Article 4 of the EU Ecolabel Regulation will lose its

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] OJ L27, 30.1.2010, p. 1.

[5] For goods placed on the EU market *before* the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods placed on the market under Union law before the withdrawal date are available here: https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en.

status. It will not be in the position to carry out the tasks described in the EU Ecolabel Regulation. It will therefore be removed from the list of EU Ecolabel Competent Bodies on the EU Ecolabel website and its right to access the Ecolabel catalogue (ECAT) database will be removed.

- EU Ecolabels awarded by the EU Ecolabel Competent Body designated by the United Kingdom can no longer be used on products placed on the EU-27 market as of the withdrawal date, and on associated promotional material.[6]

Where economic operators hold an EU Ecolabel contract issued by the UK Ecolabel Competent Body prior to the withdrawal date and plan to continue using the EU Ecolabel when placing the product concerned on the EU-27 market as from the withdrawal date, they are advised to consider one of the two following options:

- Applying for a new contract with an EU-27 Ecolabel Competent Body or

- Arranging for a transfer – on the basis of a contractual arrangement between the holder of the EU Ecolabel, the UK Ecolabel Competent Body, and the EU-27 Ecolabel Competent Body - of the file and the corresponding contract from the UK Ecolabel Competent Body to an EU-27 Ecolabel Competent Body.

The website of the Commission on the EU Ecolabel provides for general information concerning the EU Ecolabel application process and EU Ecolabel Competent Bodies These pages will be updated with further information, where necessary.

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[6] Article 9(11) of the EU Ecolabel Regulation.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENVIRONMENT
DIRECTORATE-GENERAL FOR INTERNATIONAL COOPERATION AND DEVELOPMENT

Brussels, 21 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF FIGHT AGAINST ILLEGAL LOGGING AND ASSOCIATED TRADE

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, timber importers to the EU who are acting as operators within the meaning of the Article 2 of Regulation (EU) No 995/2010[4] are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[5]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of timber trade, in particular Regulation (EU) No 995/2010, Council Regulation (EC) No 2173/2005 establishing a Forest Law Enforcement, Governance and Trade (FLEGT) licencing

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23)

5 For a movement of goods that has started before and ends on or after the withdrawal date, the EU undertakes to agree solutions with the United Kingdom in the withdrawal agreement on the basis of the EU's position on Customs related matters needed for an orderly withdrawal of the United Kingdom from the Union (https://ec.europa.eu/commission/publications/position-paper-customs-related-matters-needed-orderly-withdrawal-uk-union_en).

scheme[6] and any related FLEGT Voluntary Partnership Agreements that the EU has concluded with third countries[7], no longer apply to the United Kingdom. This has in particular the following consequences:[8]

- According to Article 4 of the Regulation (EU) No 995/2010, operators have a due diligence obligation when placing timber or timber products on the market. As of the withdrawal date, this obligation applies to EU-27 operators who import timber and timber products from the United Kingdom – no matter where the timber was initially logged.

- According to Article 8(2)(a) of Regulation (EU) No 995/2010, monitoring organisations have to be established within the Union. As of the withdrawal date, the recognition as monitoring organisations of organisations established in the United Kingdom is no longer valid. They will not be in a position to carry out the tasks set out in Regulation (EU) No 995/2010.

- Council Regulation (EC) No 2173/2005 sets up the FLEGT licencing scheme. It allows for the control of the entry of timber to the EU from countries entering into bilateral FLEGT Voluntary Partnership Agreements (VPA) with the EU. Once agreed, the VPAs include commitments and action from both parties to halt trade in illegal timber, notably with a license scheme at the partner country and the issuance of FLEGT licences that certify the legality of timber exported to the EU. As of the withdrawal date, this scheme, including the FLEGT VPAs no longer applies to the United Kingdom.

The website of the Commission on action against illegal logging (http://ec.europa.eu/environment/forests/flegt.htm) provides for general information. These pages will be updated with further information, where necessary.

European Commission
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[6] 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 (OJ L 347, 30.12.2005, p. 1)

[7] The EU has so far concluded Voluntary Partnership Agreements with Ghana, Republic of Congo, Cameroon, Indonesia, the Central African Republic and Liberia.

[8] Regarding notifications of imports, see also the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of import/export licences for certain goods*" (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENVIRONMENT

Brussels, 28 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND THE EU SHIP RECYCLING REGULATION

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, relevant stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules on ship recycling, and in particular Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling[4] no longer apply to the United Kingdom.

This has in particular the following consequences:[5]

According to Article 6(2)(a) of Regulation (EU) No 1257/2013, owners of ships flying the flag of a Member State[6] shall ensure that ships destined to be recycled are only

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] OJ L 330, 10.12.2013, p. 1.

[5] This notice does not address EU rules on maritime transport. On these aspects, including controls in the framework of the EU port state control inspection system, see the "*Notice to Stakeholders – Withdrawal of the United Kingdom and EU rules in the field of maritime transport*" (https://ec.europa.eu/info/brexit/brexit-preparedness_en?page=1).

[6] Article 2(1) of Regulation (EU) No 1257/2013.

recycled at ship recycling facilities that are included in the European List of ship recycling facilities ('the European List'). As of the withdrawal date, the entries in the European List[7] of ship recycling facilities for facilities located in the United Kingdom will become void. As a consequence, ships flying the flag of a Member State of the Union may no longer be recycled at these ship recycling facilities.

The above is without prejudice to the possibility for the Commission to list facilities located in third countries in the European List in accordance with Article 16 of Regulation (EU) No 1257/2013.

The website of the Commission on the European Union's ship recycling policy (http://ec.europa.eu/environment/waste/ships/index.htm) provides general information concerning shipments of waste and the recycling of specific waste streams. These pages will be updated with further information, where necessary.

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Directorate-General Environment

[7] Commission Implementing Decision (EU) 2016/2323 of 19 December 2016 establishing the European List of ship recycling facilities pursuant to Regulation (EU) No 1257/2013 of the European Parliament and of the Council on ship recycling (OJ L 345, 20.12.2016, p. 119).

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR THE ENVIRONMENT

Brussels, 7 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON TRADE IN PROTECTED SPECIES OF WILD FAUNA AND FLORA

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, relevant stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[4]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein[5] no longer applies to the United Kingdom.

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 For a movement of goods that has started before and ends on or after the withdrawal date, the EU undertakes to agree solutions with the United Kingdom in the withdrawal agreement on the basis of the EU's position on Customs related matters needed for an orderly withdrawal of the United Kingdom from the Union (https://ec.europa.eu/commission/publications/position-paper-customs-related-matters-needed-orderly-withdrawal-uk-union_en).

5 OJ L 61, 3.3.1997, p. 1.

This has in particular the following consequences:[6]

According to Article 4 of Council Regulation 338/97, the introduction into the EU of specimens of species included in Annexes A and B to that Regulation (hereafter "protected species") is subject to the prior presentation, at the customs office of entry, of an import permit issued by a management authority of the Member State of destination. Article 4 of Council Regulation 338/97 also lays down the conditions determining the issuance of this import permit.

According to Article 5 of Council Regulation 338/97, the export or re-export from the EU to a third country of specimens of protected species are subject to the prior presentation, at the customs office at which the export formalities are completed, of an export permit or re-export certificate issued by a management authority of the EU Member State in which the specimens are located. Article 5 of Council Regulation 338/97 also lays down the conditions determining the issuance of these export permits or certificates.

As of the withdrawal date, Articles 4 and 5 of Council Regulation 338/97 apply to the introduction and (re-) export of specimens of protected species between the United Kingdom and the EU-27. For the cross-border movement of protected species for non-commercial purposes specific derogations to these rules are in place, especially for personal and household effects and scientific institutions, pursuant to Article 7(3) and 7(4) of Council Regulation 338/97.

The website of the Commission on the EU wildlife trade regulatory framework (http://ec.europa.eu/environment/cites/legislation_en.htm) provides general information concerning these issues. These pages will be updated with further information, where necessary.

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[6] Regarding notifications of imports, see also the "Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of import/export licences for certain goods" (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENVIRONMENT

Brussels, 8 November 2018
(REV1 - replaces the notice to stakeholders published on 8 February 2018)

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU WASTE LAW

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, relevant stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, EU waste law no longer applies to the United Kingdom. This has in particular the following consequences with regard to shipments of waste:

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

1. TRANSBOUNDARY SHIPMENTS OF WASTE[4]

1.1. Prohibitions of waste shipments

Articles 34 and 3(5) of Regulation (EC) No 1013/2006 on shipments of waste[5] prohibit the export of

- waste for disposal; and
- mixed municipal waste[6] for recovery operations

from the EU to a third country, unless it is a member of the European Free Trade Association (EFTA) and a party to the Basel Convention. Consequently, as of the withdrawal date all exports of waste for disposal and the export of mixed municipal waste for recovery from the EU-27 to the United Kingdom will be prohibited.

Imports of waste into the EU-27 will be governed, as of the withdrawal date, by Title V of Regulation (EC) No 1013/2006, whereby imports of waste from a third country party to the Basel Convention remains allowed, subject to the requirements set out in that Regulation.[7]

1.2. Consents issued prior to the withdrawal date

Article 9 of Regulation (EC) No 1013/2006 requires the "consent" by the competent authorities of destination, dispatch and transit of notified waste shipments.

For consents issued by competent authorities of Member States of the EU-27 prior to the withdrawal date for shipments as of the withdrawal date, the following applies:

- Where the shipment is prohibited under Regulation (EC) No 1013/2006, the consent becomes void.

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4 In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom for movements of goods that have started before and end after the end of the transition period ("sailing goods"). See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf and the "joint statement" from the negotiators of the EU and of the United Kingdom Government presented on 19 June 2018 (https://ec.europa.eu/commission/brexit-negotiations/negotiating-documents-article-50-negotiations-united-kingdom_en).

5 OJ L 190, 12.7.2006, p. 1.

6 Mixed municipal waste (waste entry 20 03 01 in accordance with the Commission Decision 2000/532/EC on the list of waste, OJ L 226, 6.9.2000, p. 3) collected from private households, including where such collection also covers such waste from other producers.

7 Regarding notifications of imports, see also the "Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of import/export licences for certain goods" (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

- Where shipments are not *per se* prohibited, the change of the status of the United Kingdom from a Member State to a third country is an essential change under Article 17 of Regulation (EC) No 1013/2006. In accordance with Article 17(2) of Regulation (EC) No 1013/2006, in case of such an essential change, a new notification shall be submitted, unless all the competent authorities concerned consider that the proposed changes do not require a new notification.

  Even if all competent authorities concerned consider that a new notification is not required, it is recalled that the requirements for waste shipments between the EU and the United Kingdom - which, after its withdrawal from the EU, remains a Party to the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous waste and their disposal, as well as an "OECD-Decision country"[8] - will be subject to the conditions set out in Articles 38(3)(a),(b),(c) and (e) and 42(3)(b),(c) and (d) of Regulation (EC) No 1013/2006 which may require *inter alia*:

  – The competent authorities concerned to send a stamped copy of their decisions to consent to the relevant customs offices (e.g. customs offices of exit or entry);

  – The carrier to deliver a copy of the movement document to the relevant Union customs offices (e.g. customs offices of exit or entry);

  – The relevant Union customs offices to send where applicable a stamped copy of the movement document to the competent authority of dispatch, transit and destination in the Union stating that the waste has either left or entered the Union;

  – In case of an export from the Union, for the contract associated with the notification to stipulate certain obligations for the consignee of the waste and for the treatment facility.

  In addition, the notification will have to contain information of the customs offices of entry and exit.[9]

2. EU WASTE MANAGEMENT TARGETS AND RECOVERY OPERATIONS IN THIRD COUNTRIES

Where recovery of waste generated in the EU Member States takes place outside the EU, Member States can count that waste towards the fulfilment of their EU waste management targets depending on the treatment conditions outside the EU. In particular

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[8] I.e. a country to which Decision C(2001)107/FINAL of the OECD Council applies, see Article 2(17) of Regulation (EC) No 1013/2006.

[9] "Block 16" of the notification document. See Annex 1A and point 44 of annex 1C of Regulation (EC) No 1013/2006.

- Exports of waste electrical and electronic equipment for treatment in the United Kingdom will be counted towards the waste management targets of Directive 2012/19/EC on waste electrical and electronic equipment[10] if there is sound evidence that the treatment of that waste in the United Kingdom takes place in conditions that are equivalent to the requirements of that Directive.[11]

- Exports of waste batteries and accumulators for treatment in the United Kingdom will be counted towards the waste management targets of Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators[12] if there is sound evidence that the treatment of that waste in the United Kingdom takes place in conditions that are equivalent to the requirements of that Directive.[13]

- Exports of municipal waste for preparation for reuse and recycling, and exports of construction and demolition waste for preparation for reuse, recycling and other material recovery in the United Kingdom will be counted towards the waste management targets of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste[14] if there is sound evidence showing compliance of the shipment with the provisions of Regulation (EC) No 1013/2006 of the European Parliament and of the Council[15], and in particular Article 49(2) thereof.[16]

- Exports of packaging and packaging waste can be counted towards the waste management targets of the European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste[17] if there is sound evidence that the recovery and/or recycling in the United Kingdom takes place under conditions that are broadly equivalent to those prescribed by the Union legislation on the matter,[18] including the provisions of Regulation (EC) No 1013/2006 of the European Parliament and of the Council,[19] and in particular Article 49(2) thereof.

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10 OJ L 197, 24.7.2012, p. 38.

11 Article 10(2) of Directive 2012/19/EC.

12 OJ L 266, 26.9.2006, p. 1.

13 Article 15(2) of Directive 2006/66/EC.

14 OJ L 312, 22.11.2008, p. 3.

15 OJ L 190 12.7.2006, p. 1.

16 Article 2(5) of Commission Decision 2011/753/EU of 18 November 2011 establishing rules and calculation methods for verifying compliance with the targets set in Article 11(2) of Directive 2008/98/EC of the European Parliament and of the Council, OJ L 310, 25.11.2011, p. 11.

17 OJ L 365, 31.12.1994, p. 10.

18 Article 4(1) of Commission Decision 2005/270/EC establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste, OJ L 86, 5.4.2005, p. 6.

19 OJ L 190 12.7.2006, p. 1.

- Exports of end-of life vehicles can be counted towards the waste management targets of Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles[20] if there is sound evidence that the recovery and/or recycling in the United Kingdom takes place under conditions that are broadly equivalent to those prescribed by the Union legislation on the matter,[21] including Regulation (EC) No 1013/2006 of the European Parliament and of the Council,[22] and in particular Article 49(2) thereof.

The website of the Commission on waste policy (http://ec.europa.eu/environment/waste/index.htm) provides general information concerning shipments of waste and the recycling of specific waste streams. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Environment

[20] OJ L 269, 21.10.2000, p. 34.

[21] Article 2(1) of Commission Decision 2005/293/EC of 1 April 2005 laying down detailed rules on the monitoring of the reuse/recovery and reuse/recycling targets set out in Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles, OJ L 94, 13.4.2005, p. 30.

[22] OJ L 190 12.7.2006, p. 1.

Financial Stability, Financial Services and Capital Markets Union

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Brussels, 8 February 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF ASSET MANAGEMENT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders, including managers of investment funds and investors are reminded of legal repercussions which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of asset management, in particular Directive 2009/65/EC on Undertakings for Collective Investment in Transferable Securities[4] and Directive 2011/61/EU on Alternative Investment Funds Managers[5] no longer apply to the United Kingdom.

This has in particular the following consequences:[6]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) OJ L 302, 17.11.2009, p. 32.

5 Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers, OJ L 174, 1.7.2011, p. 1.

6 See also the "Notice to stakeholders – Withdrawal of the United Kingdom and EU rules in the field of Markets in Financial Instruments" (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

1. UK ASSET MANAGEMENT ACTIVITY

- UK UCITS management companies and UK AIF managers will no longer benefit from authorisation[7] (they will lose the so-called "EU passport") and will be treated as third-country AIF managers. This means that those UK entities will no longer be able to manage funds and market funds in the EU on the basis of their current authorisations:
    - For UCITS, EuVECA, EuSEF and ELTIF, both the investment funds and their managers must be established and registered or authorised in the EU to manage and market funds to retail[8] and professional investors across the Union.
    - AIF managers need to be established and authorised in the EU to be allowed to manage and market AIFs to professional investors across the EU.

- As a consequence, all collective investment undertakings registered or authorised in the United Kingdom will be non-EU alternative investment funds (non-EU AIFs). This applies to:
    - Undertakings for Collective Investment in Transferable Securities (UCITS)
    - Alternative investment funds (AIFs)
    - European Venture Capital Funds (EuVECA);[9]
    - European Social Entrepreneurship Funds (EuSEF);[10]
    - European Long Term Investment Funds (ELTIF);[11] and
    - Money Market Funds (MMF).[12]

- Member States may allow AIF managers who are not established and authorised in the EU to market AIFs (EU AIFs and non-EU AIFs) only in their territory under the so-called National Private Placement regimes[13] (hereafter "NPPR"). Directive 2011/61/EU provides Member States with discretion as to whether to activate NPPR and allow for stricter rules in addition to the minimum requirements in that Directive. Some Member States do not allow for the NPPR, while other Member States only allow marketing to professional investors.

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7 Article 6 of Directive 2009/65/EC, Article 6 of Directive 2011/61/EU.

8 EuVECA and EuSEF can only be marketed to retail investors subject to limitations in Article 6 of Regulation (EU) No 345/2013 and Article 6 of Regulation (EU) No 346/2013. ELTIF can only be marketed to retail investors subject to limitations in Article 28 of Regulation (EU) 2015/760.

9 Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds, OJ L 115, 25.4.2013, p. 1.

10 Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds , OJ L 115, 25.4.2013, p. 18.

11 Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds, OJ L 123, 19.5.2015, p. 98.

12 Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds, OJ L 169, 30.6.2017, p. 8.

13 Under NPPRs, third country entities do not benefit from the EU passports in the single market framework as each NPPR is valid only for the Member State concerned. Directive 2011/61/EU includes a minimum set of conditions under NPPR for (i) third country entities (e.g. non-EU managers should comply with some requirements of Directive 2011/61/EU such as annual report, disclosure to investors and reporting), and (ii) for the third country (e.g. appropriate cooperation agreements must be in place between the EU competent authority and the relevant third country authorities).

- UCITS management companies or AIF managers authorised by EU-27 competent authorities in accordance with Article 6 of Directive 2009/65/EC or Article 6 of Directive 2011/61/EU which are subsidiaries of entities established in the United Kingdom (legally independent companies established in EU-27 controlled by or affiliated to entities established in the United Kingdom) can continue to operate on the basis of their authorisation as UCITS management companies or AIF managers in the EU-27.

- Branches of UK managers (permanent presences which are not legally independent from the AIF manager) in the EU will be treated as branches of a non-EU AIF managers as of the withdrawal date. These branches will be subject to the requirements of NPPRs, where available.

2. EU ASSET MANAGEMENT ACTIVITY

- As of the withdrawal date, UCITS and AIFs authorised or registered in the United Kingdom in accordance with the Directive 2009/65/EC or Directive 2011/61/EU will be non-EU AIFs (see above). EU-27 UCITS management companies managing those (former) UCITS authorised in the UK will need to obtain an authorisation according to Article 6 of Directive 2011/61/EU to manage non-EU AIFs.

- The management, by AIF managers established and authorised or registered in the EU, of non-EU AIFs that are not marketed in the EU must comply with Directive 2011/61/EU (except depositary and annual report rules) and cooperation agreements for exchange of information between EU competent authorities and the relevant third country authorities (Article 34 of Directive 2011/61/EU).

- According to Article 36 of Directive 2011/61/EU, the marketing of non-EU AIFs managed by an AIF manager established and authorised or registered in the EU is subject to the NPPR, which is an option for Member States. Stricter rules may be imposed on this category of AIF managers by Member States.

- According to the rules on disclosure to investors in Directive 2009/65/EC and Directive 2011/61/EU, UCITS management companies and AIF managers must take a number of steps to inform investors of the consequences of the withdrawal of the United Kingdom from the EU, in particular:

    - According to Article 22 of Directive 2011/61/EU, AIF managers must include in the annual report any material change to the information to be disclosed to investors, which includes, but is not limited to, the legal implications of the contractual relationship.

    - According to Article 78 of Directive 2009/65/EC, UCITS management companies must prepare a key investor information document whose essential elements must be kept up to date. This includes information on Member States in which the management company is authorised, where the UCITS is managed or marketed cross-border.

Therefore, UCITS management companies and AIF managers must assess whether the change of the legal status of the investment fund would still be compliant with the investment strategy of the fund as communicated earlier to investors.

- As regards the assets in which EU funds invest, Directive 2009/65/EC and Directive 2011/61/EU do not prohibit investment in eligible assets located outside the EU. Nevertheless, there will be restrictions to fund-of-funds structures; in particular UCITS authorised in the EU-27 must assess the eligibility of (former) UCITS authorised in the United Kingdom.[14]

- EU investors should review their investment criteria to assess compliance with the change in the legal status of the funds they invested into (e.g. non-EU AIF instead of UCITS).

- The delegation of certain operational functions to providers established in the United Kingdom may be undertaken provided that the relevant requirements in Directive 2009/65/EC and Directive 2011/61/EU are complied with.[15] In particular, where the delegation concerns portfolio management or risk management (or investment management for UCITS) and is conferred on an undertaking established in a third country, a cooperation agreement between the competent authority of the home Member State of the UCITS management company or AIF manager and the supervisory authority of the undertaking carrying out the delegated function in the third country must be in place. Moreover, the European Securities and Markets Authority (ESMA) has issued an opinion with specific clarifications on these matters, in particular on the risks of letter-box entities which may arise from the use of outsourcing arrangements or from the use of non-EU branches for the performance of functions/services with respect to EU clients. The use of non-EU branches needs to be based on objective reasons linked to the services provided in the non-EU jurisdiction and may not result in a situation where such non-EU branches perform material functions or provide material services back into the EU.[16]

- According to Article 21 of Directive 2011/61/EU and Article 23 of Directive 2009/65/EC, the depository of EU AIF and UCITS authorised in the EU must be located in the home Member State of the fund. Article 22a of Directive 2009/65/EC and Article 21(11) of Directive 2011/61/EU lay down requirements for delegation of safekeeping functions to a third party. Where the safekeeping functions have been delegated to an entity established in the United Kingdom, the following applies *inter alia*:

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14 Assessment of eligibility in accordance with Articles 52 and 55 of Directive 2009/65/EC.

15 Article 20 of Directive 2011/61/EU specified by Articles 75 to 82 of the Commission Delegated Regulation (EU) No 231/2013 and Article 13 UCITS. As part of the review of the European Supervisory Authorities ("ESAs") adopted on 20 September 2017, the Commission has proposed reinforced coordination by the ESAs in relation to delegation and outsourcing of activities as well as of risk transfers (COM(2017)536 final).

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16 ESMA opinion to support supervisory convergence in the area of investment management in the context of the United Kingdom withdrawing from the European Union (13 July 2017) (https://www.esma.europa.eu/document/opinion-support-supervisory-convergence-in-area-investment-management-in-context-united).

- UCITS depositaries need to demonstrate objective reasons for delegation and to ensure that in the event of an insolvency of that third party, the assets held in custody are unavailable for distribution among, or realisation for the benefit of, its creditors;[17]

- Non-EU AIF managed by an AIF manager established and authorised in the EU can appoint a depositary in the third country of the non-EU AIF subject to specific requirements.[18]

This notice is without prejudice to the "third country passport" regime laid down in the Directive 2011/61/EU.[19]

The website of the Commission on investment funds (https://ec.europa.eu/info/business-economy-euro/growth-and-investment/investment-funds_en) provides for general information concerning asset management. These pages will be updated with further information, where necessary.

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[17] Article 17 of Commission Delegated Regulation (EU) 2016/438.

[18] Article 21(6) of Directive 2011/61/EU.

[19] Articles 37 and 40 of Directive 2011/61/EU for the marketing of non-EU AIFs by non-EU AIF managers, Articles 37 and 39 of Directive 2011/61/EU for the management of EU AIFs or marketing of EU AIFs by non-EU AIF managers.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Brussels, 8 February 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF BANKING AND PAYMENT SERVICES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of banking and payment services, including in particular Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (CRD)[4], Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms (CRR)[5] and Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] OJ L 176, 27.6.2013, p. 338.

[5] OJ L 176, 27.6.2013, p. 1.

payment services in the internal market (PSD)[6] will no longer apply to the United Kingdom. This has in particular the following consequences:

1. AUTHORISATIONS

- UK entities providing banking[7] and payment services,[8] as well as e-money issuing,[9] will no longer benefit from the authorisation[10] to provide those services and activities in the Union (they will lose the so-called "EU passport") and will be treated as third-country entities with regard to their possibility to establish branches[11] or agents in the Member States. This means that those entities will no longer be allowed to provide services in the EU on the basis of their current authorisations.

- Entities authorised by United Kingdom competent authorities which have established branches in other Member States will have to comply, as of the withdrawal date, with the rules of the host Member State applicable to branches of entities having their head office in a third country[12] including the requirement to be validly authorised by the relevant competent authority of the host Member State in accordance with these rules. This may imply the need to submit an application for authorisation as a branch or subsidiary and potentially result into changes for depositors, for instance where deposit guarantee arrangements would need to change. Payment institutions authorised by United Kingdom competent authorities, as of the withdrawal date, will not be allowed to provide payment services in the territory of the Union cross-border or through the use of branches located in the Member States.[13]

- Entities authorised by the competent authorities in the Union, including their branches, have to comply with the conditions of their authorisation on a continued basis.[14] Where entities authorised by a competent authority in the EU have established branches in the United Kingdom, these branches will have to comply with the scope

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6 OJ L 337, 23.12.2015, p. 35.

7 See Article 8(1) CRD as well as Annex I of the CRD. Several activities listed in Annex I CRD are also covered by Directive 2014/65/EU and Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (MiFID II/MIFIR). This notice is without prejudice to any consideration on the framework for investment services and stakeholders should also refer to the "Notice to Stakeholders – Withdrawal of the United Kingdom and EU rules in the field of Markets in Financial Instruments".

8 Articles 1, 2 and Annex I of Directive (EU) 2015/2366.

9 Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions.

10 Articles 39 of Directive 2013/36/EU and 11(9) of Directive (EU) 2015/2366.

11 Articles 17 of Directive 2013/36/EU and 19(5) of Directive (EU) 2015/2366.

12 Article 47 of Directive 2013/36/EU, Article 15 Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (DGSD), Article 1(1)(a) of Directive (EU) 2015/2366, and 8 Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions.

13 Articles 1(1), 11(1) and 37(1) of Directive (EU) 2015/2366.

14 Articles 18(c) of Directive 2013/36/EU and 13(c) of Directive (EU) 2015/2366.

of the authorisation granted to the entities of which they are an integral legal part. This includes compliance with regard to their programme of operations and structural organisation[15] and the requirement that the effective exercise of supervisory functions is not prevented by difficulties involved in the enforcement of the laws, regulations or administrative provisions of the third country.[16] The services covered by the scope of the authorisation, including services provided by any branches of the authorised entity located in a third country, will continue to be subject to the supervisory powers of the competent authority which has granted the authorisation, including in particular the power to restrict or limit the business, operations or network of institutions or to request the divestment of activities that pose excessive risks to the soundness of an institution.[17] The services provided by these branches will as well be subject to the relevant requirements which are set out in the EU legal framework.[18]

2. ARRANGEMENTS AND EXPOSURES

- Arrangements which may affect the ability of entities authorised in the EU to have an autonomous risk management and control framework, and sufficient operational resilience, including trading and hedging capabilities, in crisis will have to be assessed[19] by the competent authority which has granted the authorisation. The assessment will e.g. consider whether, as of the withdrawal date, entities authorised by a competent authority in the EU are allowed to continue to rely on outsourcing[20] or supervisory arrangements[21], exemptions from the application of large exposures[22] or risk mitigation requirements[23] involving counterparties established in the United Kingdom – including parent institutions or other institutions of the same group.

- The prudential treatment of exposures to third parties established in the United Kingdom[24] will also be affected as of the withdrawal date. This is without prejudice to any equivalence decision that may be adopted by the EU in relation to specific

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15 Articles 10 of Directive 2013/36/EU and 11(4) of Directive (EU) 2015/2366.

16 Article 11(8) of Directive (EU) 2015/2366.

17 Article 104(1)(e) of Directive 2013/36/EU and 11(5) of Directive (EU) 2015/2366.

18 See "Notice to Stakeholders – Withdrawal of the United Kingdom and EU rules in the field of Markets in Financial Instruments".

19 This may imply the need to submit new applications for the respective treatments.

20 Article 11(8) and 19 of Directive (EU) 2015/2366 and article 8 of Directive 2009/110/EC.

21 Articles 127 of Directive 2013/36/EU; Articles 2(1)(44), 7 and 32 of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.

22 Articles 400(2)(c) of Regulation (EU) N°575/2013, Articles 12 and 19 of Directive 2014/59/EU, and Article 5(1)(a)(i) of Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements.

23 Article 11 Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR).

24 See e.g. Articles 107, 114, 115, 116, 132, 142, 143(1), 151(4) and (9), 283, 312(2), 363 of Regulation (EU) No 575/2013.

prudential treatment referred to in the CRD.[25] Similarly, in the resolution framework, as of the withdrawal date, the assessment of the eligibility of liabilities for the minimum requirement for own funds and eligible liabilities may be affected for those liabilities issued under UK law.[26]

3. CONTRACTS

- Contract continuity for relationships between parties established in the Union and in the United Kingdom will be affected by the loss of the single passport, as this will impair the ability of UK based entities to continue performing certain obligations and activities and ensure service continuity with regard to contracts concluded before the withdrawal date. As of the withdrawal date, the EU rules on conflicts of laws and jurisdictions will no longer apply to the United Kingdom. Where contracts[27] are governed by the law of the United Kingdom, or contain a choice of law or an agreement in favour of the jurisdiction of a court in the United Kingdom, parties to those contracts should carefully assess the impact of the withdrawal of the United Kingdom on the validity and enforceability of those contracts and mitigate any risks, including any risks to their clients.

The website of the Commission on Banking and Finance (https://ec.europa.eu/info/business-economy-euro/banking-and-finance_en) provides for general information concerning banking and payment services. These pages will be updated with further information, where necessary.

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[25] See Articles 107, 114, 115, 116 and 142 of Regulation (EU) No 575/2013.

[26] See Articles 45 and 55 of Directive 2014/59/EU. See also Opinion of the European Banking Authority on issues related to the departure of the United Kingdom from the European Union (EBA/OP/2017/12), Part IV Resolution and deposit guarantee schemes, page 16 and ff.

[27] E.g. contracts supporting issuances of eligible liabilities under Article 55 of Directive 2014/59/EU.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Brussels, 8 February 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF CREDIT RATING AGENCIES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, credit rating agencies, institutions and financial market participants are reminded of legal repercussions, which need to considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of the Credit Ratings Agencies (CRAs) and in particular Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies[4] ("CRA Regulation") no longer apply to the United Kingdom.

This has in particular the following consequences:

- Deregistration. In accordance with Article 4(1) of the CRA Regulation, CRAs established in the EU need to be registered and supervised by the European Securities and Markets Authority (ESMA), in order for their ratings to be recognised for regulatory purposes in the EU. As CRAs established in the United Kingdom will no longer be considered established in the EU, ESMA will have to

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] OJ L 302, 17.11.2009, p. 1.

withdraw their registrations with effect on the withdrawal date, in accordance with Articles 14 and 20 of the CRA Regulation.

- Use of ratings for regulatory purposes. As a consequence of UK established CRAs' deregistration, credit institutions, investment firms, insurance undertakings, reinsurance undertakings, institutions for occupational retirement provision, management companies, investment companies, alternative investment fund managers and central counterparties in the EU-27 will no longer be able to use ratings issued by these CRAs for regulatory purposes (e.g. Solvency II for insurance undertaking, Capital Requirements Regulation for credit institutions).

- Endorsement. Ratings issued by a CRA established in a third country which is part of a group to which a CRA established in the EU and registered by ESMA belongs can be "endorsed" provided that certain conditions are met in accordance with Article 4(3) CRA Regulation, e.g. the conduct of the credit ratings activities by CRA established in a third country fulfils requirements which are at least as stringent as the EU specific framework, there is an objective reason for the rating to be elaborated in the third country and there is an appropriate cooperation arrangement between ESMA and the relevant supervisory authority. When "endorsed", ratings may be used for regulatory purposes.

- Prospectus. In accordance with Article 4(1) of the CRA Regulation where a prospectus contains a reference to a credit rating or credit ratings issued by a CRA established in the United Kingdom, it will need to include clear and prominent information stating that those credit ratings are not issued by a credit rating agency established in the EU and registered under the CRA Regulation.

This notice is without prejudice to any equivalence decisions that may be adopted by the EU.[5]

The website of the Commission on regulating credit rating agencies (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-supervision-and-risk-management/managing-risks-banks-and-financial-institutions/regulating-credit-rating-agencies_en) provide for general information concerning CRAs. These pages will be updated with further information, where necessary.

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[5] Article 5 of the CRA Regulation.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Brussels, 8 February 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF MARKETS IN FINANCIAL INSTRUMENTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders are reminded of legal repercussions which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of MiFID investment services and activities[4] no longer apply to the United Kingdom. This has in particular the following consequences:[5]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments, OJ L 173, 12.6.2014, p. 349 (MiFID II), and Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments, OJ L 173, 12.6.2014, p. 84 (MiFIR).

5 See also the "Notice to stakeholders – Withdrawal of the United Kingdom and EU rules in the field of asset management" (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

1. AUTHORISATIONS

- UK investment firms will no longer benefit from the MiFID authorisation[6] to provide MiFID investment services and activities in the Union[7] (they will lose the so-called "EU passport") and will be third-country firms. This means that those investment firms will no longer be allowed to provide services in the EU on the basis of their current authorisations.[8]

- EU-27 subsidiaries (legally independent companies established in EU-27 and controlled by or affiliated to investment firms established in the United Kingdom) can continue to operate as EU investment firms if they have a MiFID authorisation in one of the EU Member States. These firms, like any other MiFID firm, will comply with MiFID requirements amongst others in terms of substance requirements (including governance, outsourcing or the use of branches in a third-country to provide services back in the EU).[9] Such firm's business model and structure (including links with non-EU entities) will be part of MiFID competent authorities' assessment (e.g. qualifying shareholders, the group business model/structure, the potential (prudential) consolidated supervision or lack thereof, etc.).

- Branches in the EU-27 of UK established investment firms will be branches of third-country investment firms and will need to comply with national requirements applicable in the Member State where the branch is established or with the regime set in Article 39-41 MiFID II where applicable. The provision of services/activities is limited to that Member State's territory.

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6 Article 5 MiFID II. Credit institutions authorised under Directive 2013/36/EU may also provide investment services and activities. Before granting an authorisation under Directive 2013/36/EU, relevant competent authorities should verify that they comply with relevant MiFID provisions. See Notice to stakeholders on the withdrawal of the United Kingdom and EU rules in the field of banking and payment services.

7 Annex I to MiFID II provides a list of services and activities and financial instruments covered by the MiFID framework.

8 The benefit of the MiFID passport will therefore be limited to investment firms established in the EU having obtained a MiFID authorisation in accordance with the authorisation and substance requirements set out in the MiFID framework. See also ESMA Opinion - General Principles to support supervisory convergence in the context of the UK withdrawing from the EU (https://www.esma.europa.eu/sites/default/files/library/esma42-110-433_general_principles_to_support_supervisory_convergence_in_the_context_of_the_uk_withdrawing_from_the_eu.pdf), ESMA Opinion to support supervisory convergence in the area of investment firms in the context of the United Kingdom withdrawing from the European Union (https://www.esma.europa.eu/document/opinion-support-supervisory-convergence-in-area-investment-firms-in-context-united-kingdom).

9 See also above ESMA opinions and specific clarifications on these matters, in particular on the risks of letter-box entities which may arise from the use of outsourcing arrangements or from the use of non-EU branches for the performance of functions/services with respect to EU clients. The use of non-EU branches needs to be based on objective reasons linked to the services provided in the non-EU jurisdiction and does not result in a situation where such non-EU branches perform material functions or provide services back into the EU.

- UK market operators/investment firms operating a trading venue or execution venue will no longer benefit from the MiFID authorisation/licence[10]. UK based regulated markets (RMs), multilateral trading facilities (MTFs) or systematic internalisers (SI) will thus cease to be eligible venues for trading shares subject to the MiFIR share trading obligation; EU counterparts can no longer undertake trades in shares subject to the trading obligation on such platforms.[11] Similarly, UK based RMs, MTFs or organised trading facilities (OTFs) will cease to be eligible venues for the purposes of the MiFIR derivatives trading obligation[12] and EU counterparts will no longer be able to undertake trades on these platforms. In both cases, EU counterparts would need to reassess their trading arrangements to ensure continued compliance with their obligations under the MiFID framework.

  Where previously available, UK based trading venues and CCPs[13] will no longer benefit from the open and non-discriminatory access to EU trading venues and EU central counterparties (CCPs) and to EU benchmarks respectively.

2. CONTRACTS

- The loss of MiFID authorisations may also impact relationships with EU clients/counterparts and may affect the ability of UK established firms to continue performing certain obligations and activities deriving from existing contracts.[14] Under MiFID[15] firms are required to take measures to ensure continuity in the performance of investment services and activities. To this end, firms should assess the impact of the withdrawal of the United Kingdom from the EU on their operations and identify and mitigate compliance risks.

  For instance, EU established firms dealing in financial instruments subject to the MiFID trading obligation would no longer be able to use certain UK established firms/venues. Also, clients can no longer have direct electronic access to EU established trading venues via UK established firms. Further, UK established UCITS will become non-EU AIFs and EU established investment firms may be no longer

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10 See Articles 5, 44 MiFID. Also see ESMA Opinion in the area of secondary markets in the context of the UK withdrawing from the EU (https://www.esma.europa.eu/sites/default/files/library/esma70-154-270_opinion_to_support_supervisory_convergence_in_the_area_of_secondary_markets_in_the_context_of_the_united_kingdom_withdrawing_from_the_european_union.pdf).

11 See Article 23 MiFIR on trading obligations. The EU trading obligation applies to shares listed on both exchanges in the recognised countries and in the EU ("dual listings"), on condition that trading in the EU constitutes a significant percentage of the share's global trading volume.

12 Cf. Article 28 MiFIR. Derivatives subject to the trading obligation comprise of euro, dollar and pound interest rate swaps in the most common benchmark tenors, as well as index-based CDS (Commission Delegated Regulation (EU) 2017/2417).

13 Articles 35, 36, 37, 38 MiFIR.

14 Also considering applicable national rules.

15 Article 16(4) MiFID II.

able to distribute them to their clients, unless the relevant AIFMD provisions are complied with.

3. OTHER ASPECTS

- The outsourcing of certain operational functions to UK providers may be undertaken only when in compliance with relevant MiFID requirements.[16] In particular, the outsourcing of functions related to portfolio management to UK entities will only be permitted where the conditions under Article 32 of the MiFID Delegated Regulation 2017/565 are met, including the requirement that cooperation arrangements between National Competent Authorities and UK competent authorities are in place. Moreover, the European Securities and Markets Authority (ESMA) has issued opinions with specific clarifications on these matters, in particular on the risks of letter-box entities which may arise from the use of outsourcing arrangements or from the use of non-EU branches for the performance of functions/services with respect to EU clients.[17]

- In light of MiFID obligations on disclosure of information to clients, firms providing investment services are required to provide clients or potential clients with accurate disclosure, in good time and in any case before clients are bound by any contract, on the impact on the provision of services and investors' rights that may emerge from the withdrawal of the United Kingdom from the EU including the upcoming loss by the firm of its MiFID authorisation.[18] Firms providing investment services are also required to notify clients in good time about any material change to the information already provided, including if any material changes occurs to the situation of the firm and any resulting consequences for contracts.[19]

- According to Article 59 MiFID II, the provision of data reporting services[20] requires an authorisation by the home Member State competent authority. UK based data

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16 Cf. Article 16(5) MiFID II as further detailed in Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive ('MiFID Delegated Regulation 2017/565'), OJ L 87, 31.3.2017, p. 1. As part of the review of the European Supervisory Authorities ("ESAs") adopted on 20 September 2017, the Commission has proposed a coordination by ESAs in relation to delegation and outsourcing of activities as well as of risk transfers (COM(2017)536 final).

17 ESMA Opinion - General Principles to support supervisory convergence in the context of the UK withdrawing from the EU (31 May 2017) (https://www.esma.europa.eu/sites/default/files/library/esma42-110-433_general_principles_to_support_supervisory_convergence_in_the_context_of_the_uk_withdrawing_from_the_eu.pdf), ESMA Opinion to support supervisory convergence in the area of investment firms in the context of the United Kingdom withdrawing from the European Union (13 July 2017) (https://www.esma.europa.eu/document/opinion-support-supervisory-convergence-in-area-investment-firms-in-context-united-kingdom).

18 Articles 44, 46 MiFID Delegated Regulation 2017/565.

19 Article 46 MiFID Delegated Regulation 2017/565.

20 See Annex I, Section D, to MiFID II.

reporting service providers which have not obtained a MiFID authorisation by a competent authority established in the EU will have to cease to serve EU markets.[21]

This notice is without prejudice to any equivalence decisions that may be adopted by the EU.[22]

The website of the Commission on Financial Markets https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-markets_en provides for general information concerning MiFID Investment services and activities. These pages will be updated with further information, where necessary.

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[21] It should be noted that there is no equivalence process provided for these services.

[22] Articles 23, 28, 47 MiFIR.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Brussels, 8 February 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF INSURANCE / REINSURANCE

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, insurance/reinsurance undertakings, policyholders and other stakeholders are reminded of certain legal repercussions which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of insurance/reinsurance, (in particular the Solvency II Directive[4] and the Insurance Distribution Directive[5]) setting out the framework governing the activities of insurance/reinsurance undertakings across the EU, the protection of policyholders and the distribution of insurance products no longer apply to the United Kingdom. This has in particular the following consequences:

1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), OJ L 355, 17.12.2009, p. 1.

5 Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (IDD), OJ L 6, 2.2.2016, p. 19.

1. AUTHORISATIONS

- UK insurance undertakings will no longer benefit from the Solvency II authorisation[6] to provide services in the Union (they will lose the so-called "EU passport") and will be third-country insurance undertakings. This means that those insurance undertakings will no longer be allowed to provide services in the EU, including through online sales,[7] on the basis of their current authorisations.

- Branches of UK insurance undertakings in the EU will be branches of third-country insurance undertakings. They will need an authorisation in the Member State of their activity to be able to continue to do business and have to comply with the conditions set out in Article 162 of the Solvency II Directive. The authorisation of a branch however does not grant the right to conduct business across the EU Member States, but only in the Member States that has granted the authorisation.

- EU-27 subsidiaries (legally independent companies established in EU-27 and controlled by or affiliated to insurance undertakings established in the United Kingdom) can continue to operate as EU insurance undertakings on the basis of their authorisation in the EU Member State of their establishment and subject to their compliance with the EU rules, including in terms of governance, risk management, and outsourcing.[8]

- UK reinsurance undertakings will have to comply, for their EU business, with the conditions set by the EU Member State in which they carry out their activity. These conditions cannot be more favourable than those applying to reinsurance companies from the EU,[9] but they may be less favourable and may well differ between EU Member States: for example, Member States are free to require the pledging of assets or the establishment of a branch by the third country reinsurer. This is without prejudice to any equivalence decision that may be adopted by the EU,[10] whereby reinsurance contracts concluded with undertakings having their head office in that third country must be treated by EU Member States in the same manner as reinsurance contracts concluded with undertakings authorised in accordance with Solvency II.

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6 Article 14 of the Solvency II Directive.

7 Chapter 8, Sections I and II of the Solvency II Directive.

8 See also the European Insurance and Occupational Pensions Authority (EIOPA) guidance for national competent authorities on the principles of authorisation and supervision in the context of the UK withdrawal from the European Union (https://eiopa.europa.eu/Publications/Opinions/EIOPA-BOS-17-141%20Opinion_Supervisory_Convergence.pdf).

9 Article 174 of the Solvency II Directive.

10 Article 172 of the Solvency II Directive.

2. INSURANCE CONTRACTS

- Contract continuity: The loss of EU authorisation may affect the ability of UK insurance undertakings to continue performing certain obligations and activities and ensure service continuity with regard to contracts concluded before the withdrawal date.[11] According to the Solvency II Directive firms are required to take measures to ensure that contracts can continue to be serviced. To this end, firms should assess the impact of the withdrawal of the United Kingdom from the European Union on their operations and contract portfolios and, also in cooperation with the relevant national supervisors, identify and mitigate risks.[12]

3. OTHER ASPECTS

- Information disclosure: According to Articles 183-186 of the Solvency II Directive and Articles 17-25 of Directive (EU) 2016/97, policyholders/customers should be informed about the impact on their rights and on the provision of insurance services that may emerge from the withdrawal of the United Kingdom from the EU, including the upcoming loss by the relevant insurance undertaking/intermediary of its EU authorisation.

- Group supervision: Insurance/reinsurance undertakings operating in the EU but part of a group with the parent undertaking registered in the United Kingdom will be subject, in the absence of equivalence supervision,[13] to the Solvency II provisions empowering EU supervisory authorities to require a worldwide group solvency or to apply other methods aiming to ensure appropriate group level supervision including the establishment of a holding company with head office in the Union.[14]

  Any group-level internal model covering a UK group operating in the EU, approved by the UK Prudential Regulatory Authority before the withdrawal date will no longer be recognised in the EU as of the withdrawal date, and will require a new application and approval by an EU-27 supervisor. Any entity-level internal model for a subsidiary of an UK insurance undertaking established in one of the EU-27 Member States and approved by the supervisor of that Member State will remain valid.

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11 Also considering applicable national rules.

12 See Article 41(4) and 46(2) of the Solvency II Directive. See also the EIOPA Opinion of 21 December 2017 on service continuity in insurance in light of the withdrawal of the United Kingdom from the European Union https://eiopa.europa.eu/Publications/Opinions/2017-12-21%20EIOPA-BoS-17-389_Opinion_on_service_continuity.pdf

13 In the absence of equivalent supervision referred to in Article 260 of the Solvency II Directive.

14 Article 262 of the Solvency II Directive.

- Insurance/reinsurance intermediaries registered in the United Kingdom will no longer benefit from their registration rights under Directive (EU) 2016/97[15] and will therefore no longer be able to conduct business in the European Union on the basis of their UK registration.

The website of the Commission on Insurance and Pensions (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/insurance-and-pensions_en) provide for general information concerning insurance/reinsurance activities. These pages will be updated with further information, where necessary.

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[15] Article 3 of Directive (EU) 2016/97.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Brussels, 27 April 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF INSTITUTIONS FOR OCCUPATIONAL RETIREMENT PROVISION

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, Institutions for Occupational Retirement Provision ("IORPs"), IORP members and beneficiaries, undertakings sponsoring IORPs and other stakeholders are reminded of certain legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules for IORPs, and in particular Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision[3] no longer apply to the United Kingdom. This has in particular the following consequences:

- As of the withdrawal date, IORPs registered or authorised in the United Kingdom will no longer benefit from the registration or authorisation under Directive (EU) 2016/2341[4] to provide services in the Union and will be treated as third-country undertakings, to which Directive (EU) 2016/2341 does not apply. This means that, as of the withdrawal date, those IORPs will no longer be allowed to operate, on the basis of their current registration/authorisation as IORPs for members or beneficiaries whose relationship with the sponsoring undertaking is governed by the social and labour law relevant to the field of occupational pension schemes of an EU-27

1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.
2 A third country is a country not member of the EU.
3 OJ L 354, 23.12.2016, p. 37. This Directive will repeal Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (OJ L 235, 23.9.2003, p. 10). It will have to be applied by Member States from 13 January 2019 at the latest.
4 Articles 9, 11 and 12 of Directive (EU) 2016/2341.

Member State (hereafter "EU-27 members and beneficiaries"). The assets will be in the United Kingdom and members and beneficiaries will have to rely on UK national law to have access to their assets.

- As of the withdrawal date, IORPs registered or authorised in the United Kingdom will have to comply, with regard to activities related to EU-27 members and beneficiaries, with the rules of the host Member State applicable to activities of IORPs registered or authorised in a third country. These rules may require a registration or authorisation by the relevant competent authority of the host Member State in accordance with the applicable national rules. Such registration or authorisation does, however, not grant the right to conduct business across the EU Member States, but is limited to the Member State that has granted the registration or authorisation.

- Before the withdrawal date, IORPs registered or authorised in the UK which are active cross-border in the EU-27 should contact the competent authorities of the relevant host EU-27 Member States to determine whether and under which conditions they might be allowed to continue their activities pursuant to national law in this Member State. Depending on the outcome, they might have to take contingency measures:

    - If it is not possible to continue the cross-border operations into an EU-27 Member State, UK IORPs may decide to transfer their portfolio related to EU-27 members and beneficiaries to a receiving IORP registered or authorised in EU-27, in order to keep such members and beneficiaries under the EU IORP framework. Article 12 of Directive (EU) 2016/2341, which has to be transposed at the latest by 13 January 2019, provides for a transfer procedure.[5] If a transfer is not performed, the UK IORP will no longer be able to continue to operate the pension schemes of its EU-27 members and beneficiaries, and the consequences for its EU-27 members and beneficiaries are as described above.

    - If the Member State allows continued cross-border activities under its national law, the IORPs would have to decide whether to rely on these rules or to transfer the portfolio.

- Sponsoring undertakings established in the EU-27 that pay contributions to an IORP registered or authorised in the United Kingdom should assess the conditions for the continuation of the relevant schemes on the basis of the national law of the Member State in which they are established. In any event, as of the withdrawal date, such pension schemes will no longer benefit from the legal framework provided by Directive (EU) 2016/2341. If the host Member State does not allow the continued cross-border activities of the UK IORP, sponsoring undertakings will have to make sure that the IORP in question is either transferred or that they find an alternative IORP. Sponsoring undertakings established in the United Kingdom that pay contributions to an IORP registered or authorised in the EU-27 with regard to a pension scheme for members or beneficiaries whose relationship with the sponsoring

[5] As long as Member States have not transposed Directive (EU) 2016/2341, Directive 2003/41/EC applies. Directive 2003/41/EC does not provide for a transfer procedure. However, a transfer may be possible on the basis of an agreement between the authorities of the transferring and receiving IORPs. In this case, IORPs could therefore already initiate such a transfer.

undertaking is governed by EU-27 social and labour law will be able to continue doing so[6] and be subject to Directive (EU) 2016/2341.

- As of the withdrawal date, members and beneficiaries whose relationship with the sponsoring undertaking of an EU-27 IORP is governed by the social and labour law of the United Kingdom relevant to the field of occupational pension schemes ("UK members and beneficiaries")[7] will no longer benefit from the legal framework set by Directive (EU) 2016/2341, even if the IORP is registered or authorised in the EU-27.[8] Whether and under which regulatory framework the EU-27 IORP is allowed to provide services to members and beneficiaries in a third country has to be assessed under the national rules applicable to the IORP.

- Contract continuity: The loss of EU registration/authorisation may also affect the ability of IORPs registered or authorised in the United Kingdom to continue performing certain obligations and activities and ensure service continuity with regard to contracts concluded before the withdrawal date.[9] IORPs, undertakings sponsoring IORPs and other stakeholders should assess the impact of the withdrawal of the United Kingdom on their operations and contractual arrangements and, also in cooperation with the relevant national supervisors and with the European Insurance and Occupational Pensions Authority (EIOPA), identify and mitigate compliance risks.

- According to Article 37(3) of Directive (EU) 2016/2341, IORP members and beneficiaries have to receive, within a reasonable time, any relevant information regarding changes to the pension scheme rules. This includes information on the impact on their rights and the provision of IORP services emerging from the withdrawal of the United Kingdom from the EU, since the withdrawal may trigger changes to their pension scheme rules.

The website of the Commission on Insurance and Pensions (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/insurance-and-pensions_en) provide for general information concerning IORP activities. These pages will be updated with further information, where necessary.

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6 Article 6(3) of Directive (EU) 2016/2341 does not specify a specific place of establishment for the sponsoring undertaking.
7 UK members and beneficiaries may reside in the United Kingdom or in the EU-27.
8 See Article 6(19) of Directive (EU) 2016/2341 on the definition of a cross-border activity.
9 As Directive (EU) 2016/2341 does not contain specific provisions on how to ensure that contracts can continue to be honoured, it is a matter determined by the national law of the host Member State.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Brussels, 8 February 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF POST-TRADE FINANCIAL SERVICES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all stakeholders are reminded of legal repercussions which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, EU rules on financial markets, in particular Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories[4] (EMIR)[5], Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012[6] (MIFIR), Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country which is not a Member State of the EU.

4 OJ L 201, 27.7.2012, p. 1.

5 Including, once agreed by the European Parliament and the Council, the Commission proposal (COM (2017) 331) for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority) and amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs.

6 OJ L 173, 12.6.2014, p. 84.

amending Regulation (EU) No 648/2012[7] (SFTR), Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems[8] (SFD), no longer apply to the United Kingdom.

1. DERIVATIVES

- As of the withdrawal date, derivatives traded on a UK regulated market will no longer fulfil the definition of exchange traded derivatives (**ETDs**) under EU law. According to Article 2(32) of MIFIR, ETDs are derivatives traded on an EU regulated market, or on a third-country market considered to be equivalent.[9] Thus, under EU law[10], as of the withdrawal date, ETDs traded on a UK regulated market will be over-the-counter (**OTC**) derivative contracts.

- An ETD that becomes an OTC derivative will thus become subject to all EMIR requirements applicable to OTC derivatives transactions: all OTC derivatives transactions count towards the calculation of the clearing threshold in accordance with the provisions of EMIR[11], and will be subject to the EMIR clearing obligation where one has been adopted[12] as well as certain risk mitigation techniques (notably the exchange of margins).

- OTC derivatives that are subject to the clearing obligation must be cleared by a central counterparty (CCP) which is authorised and established in a Member State of the EU or a CCP established in a third-country and which is recognised by the European Securities and Markets Authority (ESMA) under Article 25 of EMIR to clear that class of OTC derivative.[13] As of the withdrawal date, CCPs established in the United Kingdom will be third-country CCPs which would need to be recognised under EMIR before they could be used to fulfil the clearing obligation.[14] Counterparties will not be

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7 OJ L 337, 23.12.2015, p. 1.

8 OJ L 166, 11.6.1998, p. 45.

9 An ETD is "a derivative that is traded on a regulated market or on a third-country market considered to be equivalent to a regulated market […], and as such does not fall within the definition of an OTC derivative as defined in Article 2(7) of EMIR", see Article 2(32) of MIFIR.

10 OTC derivative contracts are those not traded on an EU regulated market or traded on third-country regulated market that is not subject to an equivalence decision. See Article 2(7) and Article 2a of EMIR.

11 See, in particular, Articles 2a, 13, 25 and 75 of EMIR.

12 The following products are currently subject to a clearing obligation: interest rate swaps in Euro, Japanese Yen, US Dollar, Norwegian Krona, Polish Zloty and Swedish Krona; and index credit default swaps.

13 See Article 4(3) of EMIR.

14 See Article 4(3) of EMIR and, once agreed by the European Parliament and the Council, the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority) and amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs and the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central

able to fulfil their clearing obligation under EMIR in CCPs established in the United Kingdom as long as those CCPs are not recognised by ESMA under EMIR.

- The obligation to clear transactions through an authorised CCP established in the EU or a recognised CCP established in a third country also applies to counterparties established in third countries, where the contract has a direct, substantial and foreseeable effect within the EU or where such an obligation is necessary or appropriate to prevent the evasion of any provisions of EMIR.[15]

- The loss of EU authorisation of CCPs established in the United Kingdom will affect their ability to continue performing certain activities (e.g. compression) and fulfilling certain obligations (e.g. default management) with regard to contracts concluded before the withdrawal date.

- A higher capital charge will apply to exposures resulting from positions in derivatives held by credit institutions and investment firms established in the EU in non-recognised CCPs established in third countries[16]. This is because only authorised CCPs established in the EU and recognised CCPs established in a third country are qualifying CCPs[17] (QCCPs) which have a favourable treatment under CRR.[18]

- Counterparties in the EU and counterparties in third countries to which the clearing obligation applies should therefore examine their derivatives portfolios. All counterparties (including counterparties established in third countries), be they a financial institution or a non-financial company above the clearing threshold, should ensure that they fulfil the clearing requirements. Where derivatives are concluded via an intermediary or cleared via an intermediary (i.e. clearing member, client of a clearing member or an indirect client), counterparties should ensure that their contract with that intermediary duly complies with the applicable legal requirements.

2. TRADE REPOSITORIES AND REPORTING

- Derivatives or securities financing transactions which are subject to the reporting obligation under EMIR or SFTR must be reported by counterparties to an EU

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counterparty, the registration and supervision of trade repositories and the requirements for trade repositories.

15 For further details, see Article 4 EMIR and Commission Delegated Regulation (EU) No 285/2014 of 13 February 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on direct, substantial and foreseeable effect of contracts within the Union and to prevent the evasion of rules and obligations, OJ L 85, 21.3.2014, p.1.

16 See Articles 300 to 311 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (CRR).

17 See Article 497 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (CRR).

18 See Article 4(1)(88) of CRR, subject to the transitional provisions of Article 497 of CRR and Commission Implementing Regulation (EU) 2017/2241 of 6 December 2017 (transitional period lasts for third-country CCPs until 15 June 2018).

registered trade repository or to a third-country trade repository recognised by the European Securities and Markets Authority (ESMA) under Article 77 of EMIR.[19] As of the withdrawal date, trade repositories established in the United Kingdom will be third-country trade repositories.

- The obligation to report a derivative contract to a duly registered or recognised trade repository is addressed to the counterparties. All counterparties, be they financial or non-financial, must ensure that this requirement is fulfilled. Where reporting to a trade repository is delegated to a third party, counterparties should ensure that their contract guarantees compliance with all applicable legal requirements in EMIR and/or SFTR.

- The requirement for counterparties to keep a record of any derivative contract that has been concluded and of any modification thereto must continue to be fulfilled by counterparties for at least five years following the termination of the contract.[20]

- Systems will no longer be able to be designated by the United Kingdom under the Settlement Finality Directive.[21] As of the withdrawal date, systems currently designated by the United Kingdom will lose their designation under the Settlement Finality Directive along with the rights and benefits that entails for them and their participants. This is without prejudice to any specific provisions in national law of Member States.[22]

This notice is without prejudice to any equivalence decisions that may be adopted by the EU.[23]

The website of the Commission on Post-trade services (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-markets/post-trade-services_en) provides for general information concerning post-trade services. These pages will be updated with further information, where necessary.

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[19] See Article 9 of EMIR and Article 4 of SFTR.

[20] See Article 9(2) of EMIR.

[21] See Article 2(a) of Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (SFD).

[22] See Recital 7 of the SFD.

[23] See in particular Articles 2a, 13, 25 and 75 EMIR.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Brussels, 8 February 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF STATUTORY AUDIT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, statutory auditors and companies subject to audit requirements are reminded of legal repercussions which need to be considered when the United Kingdom becomes a third country.[4]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of statutory audit (in particular the Statutory Audit Directive[5]) no longer apply to the United Kingdom. This has in particular the following consequences:

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 For procedures on the approval of statutory auditors pursuant to Article 14 of the Statutory Audit Directive that are ongoing on the withdrawal date, the "*Joint report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union*" establishes that, in respect of the persons covered in that report, these procedures will be completed under Union law (paragraph 32): https://ec.europa.eu/commission/publications/joint-report-negotiators-european-union-and-united-kingdom-government-progress-during-phase-1-negotiations-under-article-50-teu-united-kingdoms-orderly-withdrawal-european-union_en

5 Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, OJ L 157, 9.6.2006, p. 87.

1. ENTITLEMENT TO CARRY OUT STATUTORY AUDITS IN THE EU

- As of the withdrawal date, natural persons approved as auditors by the United Kingdom (*United Kingdom auditors*) will be considered *third country auditors* and they will no longer be considered *statutory auditors* for the purpose of the Statutory Audit Directive.[6] Audit entities approved by the United Kingdom (*United Kingdom audit entities*) will be considered *third country audit entities* and will no longer be considered *audit firms* for the purpose of the Statutory Audit Directive. Neither *United Kingdom auditors* nor *United Kingdom audit entities* will be entitled to carry out statutory audits required by the law of a Member State in accordance with the Statutory Audit Directive.

- An *audit firm* approved in a Member State (EU-27) should carefully examine whether it will continue, as of the withdrawal date, complying with the conditions set out in Article 3(4) of the Statutory Audit Directive, in particular in relation to voting rights and members of the administrative or management body of the *audit firm*.

2. REGISTRATION OF THIRD-COUNTRY AUDITORS AND AUDIT ENTITIES

- As of the withdrawal date, a *United Kingdom auditor* or *United Kingdom audit entity* providing an audit report concerning the annual or consolidated accounts of a company incorporated outside the EU whose transferable securities are admitted to trading on a regulated market[7] of an EU Member State will have to be registered in that Member State as *third country auditor* or *third country audit firm*[8], in accordance with Article 45 of the Statutory Audit Directive.

- Failing such registration, any such audit report will have no legal effect in the Member State concerned.

- *United Kingdom auditors* or *United Kingdom audit entities* registered in accordance with Article 45 of the Statutory Audit Directive will in principle be subject to the systems of public oversight, quality assurance and investigation and penalties of the Member State of registration (cf. Article 45(3) of the Statutory Audit Directive).[9]

3. OTHER ASPECTS

- **Statutory audit of consolidated accounts of undertakings in the EU that have subsidiaries in the United Kingdom:** In accordance with Article 27 (on statutory audits of consolidated financial statements) of the Statutory Audit Directive, the

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6 Under Article 44 of the Statutory Audit Directive, a *United Kingdom auditor* could seek, as a *third country auditor*, to be approved as a *statutory auditor* by a Member State subject however to, inter alia, reciprocity. The *third country auditors* approved under Article 44 of the Statutory Audit Directive are subject to supervision by the relevant Member State authorities.

7 Except for issuers of high value-denominated debt securities (cf. Article 45(1) of the Statutory Audit Directive).

8 Article 16(2) and 17(2) of the Statutory Audit Directive.

9 Without prejudice to derogation in the case of equivalence (cf. Article 46 of the Statutory Audit Directive).

statutory auditor or *audit firm* approved in a Member State acting as group auditor of an undertaking in the EU will need to take into account, in respect of the audit of that undertaking's subsidiaries in the United Kingdom, that the relevant *United Kingdom auditor* or *United Kingdom audit entity* will be considered as *third-country auditor* or *third-country audit entity* for the purpose of the requirements of that Article (e.g. the audit work of the *United Kingdom auditor* or *United Kingdom audit entity* will be subject to evaluation and review by the group auditor).

- **Cooperation of EU statutory auditors and audit firms with competent authorities of the United Kingdom:** In accordance with Article 23(5), second subparagraph (on confidentiality and professional secrecy) of the Statutory Audit Directive, the *statutory auditor* or *audit firm* approved in a Member State that carries out the statutory audit of an undertaking in the EU which forms part of a group of undertakings whose parent undertaking is in the United Kingdom or of an undertaking in the EU which has issued securities in the United Kingdom may only transfer audit working papers or other documents related to the audit of the audited undertaking in the EU to the competent authorities of the United Kingdom under the conditions set out in Article 47 of the Statutory Audit Directive. In particular, this requires the agreement of the Member State concerned and the existence of reciprocity arrangements between the competent authorities.

The above is without prejudice to the possibility for the competent authority of a Member State to approve a third country auditor as statutory auditor in accordance with Article 44 of the Statutory Audit Directive.

The website of the Commission on auditing of companies' financial statements (https://ec.europa.eu/info/business-economy-euro/company-reporting-and-auditing/auditing-companies-financial-statements_en) provide for general information concerning statutory audits. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Financial Stability, Financial Services and Capital Markets Union

Internal Market, Industry, Entrepreneurship and SMEs

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

Brussels, 29 November 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF COSMETIC PRODUCTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[3] as of the withdrawal date, the EU rules in the field of cosmetic products, in particular Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products[4], no longer apply to the United Kingdom. This has in particular the following consequences for cosmetic products placed on the EU market as of the withdrawal date:

1. RESPONSIBLE PERSON

According to Article 4 of Regulation (EC) No 1223/2009, only cosmetic products for which a legal or natural person is designated within the EU as 'responsible person' shall be placed on the market. The responsible person shall ensure

[1] In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[2] A third country is a country not member of the EU.

[3] Cf. Part four of the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, as agreed at negotiator's level on 14 November 2018 (https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132_en)

[4] OJ L 342, 22.12.2009, p. 59.

compliance with the relevant obligations set out in Article 5 of Regulation (EC) No 1223/2009.

According to Article 4(3) of Regulation (EC) No 1223/2009, for cosmetic products manufactured within the EU, the responsible person shall be the manufacturer established within the EU (by default) or a person who is established within the EU and is designated by written mandate by the manufacturer and has accepted in writing.

According to Article 4(5) of Regulation (EC) No 1223/2009, for cosmetics imported into the EU from a third country, the importer becomes the responsible person (by default) or can designate by written mandate another person to be the responsible person, also established within the EU, who shall accept in writing.

As of the withdrawal date, responsible persons can no longer be established in the United Kingdom. Rather:

- If the cosmetic product is manufactured in the United Kingdom, the importer in the EU-27 becomes the responsible person (by default) or can designate by written mandate another person to be the responsible person, also established within the EU, who shall accept in writing.

- The same applies if the cosmetic product is manufactured in another third country, imported into the United Kingdom and subsequently imported into the EU-27.

Where, currently, a responsible person established in the United Kingdom is designated by an EU-27 manufacturer/importer, that manufacturer/importer should take the necessary measures to ensure that, after the withdrawal date, a responsible person is established in the EU-27

2. NOTIFICATION IN THE COSMETIC PRODUCT NOTIFICATION PORTAL

According to Article 13(1) of Regulation (EC) No 1223/2009, prior to placing the cosmetic product on the market, the responsible person shall notify a list of information relating to the cosmetic product to the Commission, through the Cosmetic Product Notification Portal[5] (CPNP).

As of the withdrawal date, prior to placing a cosmetic product on the EU-27 market, the new responsible person in the EU-27 will have to make product notifications in the CPNP.

As regards existing notifications made before the withdrawal date by a responsible person established in the United Kingdom, the CPNP offers the possibility to transfer notifications to another responsible person. Thus, a UK-based responsible person can transfer an existing notification to the future EU-27 responsible person. This EU-27 responsible person will then be able to edit the notification and complete it by adding its own required information, such as the name and address of the responsible person (Article 13(1)(b) of Regulation (EC) No 1223/2009), and the new labelling (Article 13(2) of Regulation (EC) No 1223/2009; see also the section

[5] https://ec.europa.eu/growth/sectors/cosmetics/cpnp_en.

4 of this notice). However, this transfer in CPNP is only possible until the withdrawal date. As of the withdrawal date, the former UK-based responsible person will no longer have access to the CPNP.

New responsible persons established in the EU-27 can already indicate before the withdrawal date that cosmetic products manufactured in the United Kingdom will be, as of the withdrawal date, imported into the Union from the United Kingdom as a country of origin.

3. PRODUCT INFORMATION FILE (PIF)

According to Article 11 of Regulation (EC) No 1223/2009, when a cosmetic product is placed on the market, the responsible person shall keep a product information file (PIF) for the cosmetic product for a period of ten years.

The PIF shall be readily accessible in electronic or other format at the address of the responsible person, as indicated on the label of the cosmetic product, to the competent authority of the Member State in which the PIF is kept. The information in the PIF shall be available in a language that can be easily understood by the competent authority of the Member State.

As of the withdrawal date, the PIF has to be made available at the address of the responsible person in the EU-27 and adapted in terms of the language requirements of the Member State in question.

4. LABELLING

According to Article 19 of Regulation (EC) No 1223/2009, the name and address of the responsible person shall be indicated on the label of cosmetic products. The country of origin shall be specified for imported cosmetic products.

As of the withdrawal date, cosmetic products manufactured in the United Kingdom and placed on the EU market will be a cosmetic product imported into the EU-27 from a third country. The country of origin will need to be specified for these imported cosmetic products.

The website of the Commission on Regulation (EC) No 1223/2009 (http://ec.europa.eu/growth/sectors/cosmetics/legislation_en) provides general information concerning cosmetics. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

Brussels, 27 September 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF DETERGENTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, economic operators in the field of detergents are reminded of the legal repercussions, which need to considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of detergents, in particular Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents[3] no longer apply to the United Kingdom. This has in particular the following consequences for detergents placed on the EU market as of the withdrawal date:[4]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 A third country is a country not member of the EU.

3 OJ L 104, 8.4.2004, p. 1.

4 In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom concerning goods placed on the EU market *before* the end of the transition period. See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf.

1. RESPONSIBILITIES FOR IMPORTERS

According to Article 2(10) of Regulation (EC) No 648/2004, a manufacturer is the person responsible for placing a detergent or a surfactant for a detergent on the EU market. The notion covers not only a producer, but also an importer.

According to Article 3(2) of Regulation (EC) No 648/2004, manufacturers of detergents or surfactants for detergents shall be established in the Union, and take responsibility for the conformity of detergents or surfactants for detergents with that Regulation.

As of the withdrawal date, a manufacturer established in the United Kingdom will no longer be an economic operator established in the EU. As a consequence, an economic operator established in the EU-27 and placing detergents or surfactants for detergents coming from the United Kingdom on the EU-27 market, until then considered as a distributor, will become an EU importer in relation to such products. This operator will have to comply with the obligations for manufacturers.

2. LABELLING

According to Article 11(2)(b) of Regulation (EC) No 648/2004, detergents must be labelled with the name or trademark of the party responsible for placing the product on the market.

If, prior to the withdrawal date, the manufacturer was established in the United Kingdom, the marking of the manufacturer on the packages, labels and accompanying documents has to be changed accordingly.

3. APPROVED LABORATORIES

Based on Articles 3 and 4, as well as Annexes II, III, IV and VIII to Regulation (EC) No 648/2004 the following tests are required:

- Primary biodegradability tests for surfactants in detergents;
- Ultimate biodegradability (mineralisation) tests for surfactants in detergents;
- Complementary risk assessment for surfactants in detergents.

According to Article 8(2) of Regulation (EC) No 648/2004, these tests have to be carried out by laboratories approved by a Member State.[5] Compliance with this requirement is controlled on products placed on the market.[6]

For detergents placed on the market as of the withdrawal date, tests supporting the safety of detergents according to Regulation (EC) No 648/2004 have to have been carried out by a laboratory approved by an EU-27 Member State.

The website of the Commission on Chemical Legislation (https://ec.europa.eu/growth/sectors/chemicals/legislation_en) provides for general

[5] The list of approved laboratories is published here: http://ec.europa.eu/growth/sectors/chemicals/legislation_en

[6] Article 10 of Regulation (EC) No 648/2004.

information concerning detergents. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMEs

Brussels, 25 September 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF EXPLOSIVES FOR CIVIL USES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, economic operators in the field of explosives for civil uses are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of explosives for civil uses, in particular 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,[3] no longer apply to the United Kingdom. This has in particular the following consequences in the area of explosives for civil uses placed on the EU market as of the withdrawal date:[4]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 A third country is a country not member of the EU.

3 OJ L 96, 29.3.2014, p. 1.

4 In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom concerning goods placed on the EU market *before* the end of the transition period. See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf.

1. OBLIGATIONS OF IMPORTERS; CONFORMITY ASSESSMENT PROCEDURES AND NOTIFIED BODIES

The *Notice to stakeholders – Withdrawal of the United Kingdom and EU rules in the field of industrial products*[5] is also relevant for the EU rules on explosives for civil uses. This holds in particular for the identification of economic operators (an economic operator established in the EU-27 who, prior to the withdrawal date, was considered an EU distributor will become an importer for the purpose of Directive 2014/28/EU), and the requirement to hold a certificate issued by an EU-27 notified body as of the withdrawal date.

2. MARKING OF EXPLOSIVES FOR CIVIL USES

According to Article 3(1) of Commission Directive 2008/43/EC setting up a system for the identification and traceability of explosives for civil uses[6], applicable by virtue of Article 51(3) of Directive 2014/28/EU, explosives manufactured or imported shall be marked with a unique identification. According to the second indent of Article 3(5) of Commission Directive 2008/43/EC, where a manufacturing site is located outside the EU and the manufacturer is not established in the EU, the importer shall contact the Member State of import in order for the manufacturing site to be attributed a code.

As of the withdrawal date, manufacturing sites in the United Kingdom will be identified as located outside the Union and will require a code to be attributed by the national authority of the EU-27 Member State of import.

According to Article 3(2) Commission Directive 2008/43/EC, where explosives for civil uses are manufactured in the EU for export, a unique identification mark is not required if the importing third country requires an identification which allows traceability of the explosives. The question whether, as of the withdrawal date, this exception applies for explosives for civil uses manufactured in the EU-27 for export to the United Kingdom will depend on whether the United Kingdom will have, as of the withdrawal date, national identification requirements in place.

The website of the Commission on the EU legislation on explosives for civil uses (https://ec.europa.eu/growth/sectors/chemicals/legislation_en#explosives) provide for general information concerning explosives for civil uses. These pages will be updated with further information, where necessary.

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[5] https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#grow

[6] OJ L 94, 5.4.2008, p. 8.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

Brussels, 25 September 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF FERTILISERS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, economic operators in the field of fertilisers are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of EC fertilisers[3], in particular Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers,[4] will no longer apply to the United Kingdom. This has in particular the following consequences in the area of EC fertilisers placed on the EU market as of the withdrawal date:[5]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 A third country is a country not member of the EU.

3 An "EC fertiliser" is a fertiliser belonging to a type of fertilisers listed in Regulation (EC) No 2003/2003 and complying with that Regulation.

4 OJ L 304, 21.11.2003, p. 1.

5 In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom concerning goods placed on the EU market *before* the end of the transition period. See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf.

1. RESPONSIBILITIES FOR IMPORTERS

According to Article 2(x) of Regulation (EC) No 2003/2003, a manufacturer is the person responsible for placing a fertiliser on the EU market.[6] The notion covers not only a producer, but also an importer.

According to Article 4 of Regulation (EC) No 2003/2003, manufacturers of fertilisers shall be established in the Union, and take responsibility for the conformity of EC fertilisers with that Regulation. The manufacturer is also responsible for providing EC fertilisers with identification markings (Article 7 of Regulation (EC) No 2003/2003), ensuring traceability (Article 8 of Regulation (EC) No 2003/2003), and complying with the specific rules for ammonium nitrate fertilisers of high nitrogen content (Articles 26 and 27 of Regulation (EC) No 2003/2003).

As of the withdrawal date, a manufacturer established in the United Kingdom will no longer be an economic operator established in the EU. As a consequence, an economic operator established in the EU-27 and placing EC fertilisers coming from the United Kingdom on the EU-27 market, until then considered as a distributor, will become an EU importer in relation to such products. This operator will therefore have to comply with the above-mentioned obligations for manufacturers.

2. MARKINGS

According to Article 9(1)(a), 11th indent, of Regulation (EC) No 2003/2003, packages, labels and accompanying documents of fertilisers shall bear the name or trade name and address of the manufacturer.

If, prior to the withdrawal date, the manufacturer was established in the United Kingdom, the marking of the manufacturer on the packages, labels and accompanying documents has to be changed accordingly.

The website of the Commission on the EU legislation for chemicals legislation (https://ec.europa.eu/growth/sectors/chemicals/legislation_en) provides for general information concerning fertilisers. These pages will be updated with further information, where necessary.

European Commission
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[6] By contrast, a distributor who does not change the characteristics of the fertiliser shall not be deemed to be a manufacturer, Article 2(x) of Regulation (EC) No 2003/2003.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMEs

Brussels, 22 January 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF INDUSTRIAL PRODUCTS[1]

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[2] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[3] The United Kingdom will then become a 'third country'.[4]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[5]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of non-food and non-agricultural products, whether for use by consumers or professionals (hereinafter referred to as "Union product legislation"), no longer apply to the United Kingdom. This has, in

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1 See the annex for the detailed list of Union product legislation.

2 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

3 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

4 A third country is a country not member of the EU.

5 For goods placed on the EU market *before* the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods placed on the market under Union law before the withdrawal date are available here: https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en.

particular, the consequences presented below for products **placed on the EU-27 market**[6] **as from the withdrawal date.**[7] An indicative list of Union product legislation to which this notice applies can be found in the annex.[8]

This notice should be read in conjunction with any complementary, more specific notices on the legal consequences of the United Kingdom's withdrawal that may be published with regard to any of the Union acts listed in the annex.

1. CONSEQUENCES FOR THE IDENTIFICATION OF ECONOMIC OPERATORS

According to Union product legislation, the **importer** is the economic operator[9] established in the Union who places a product from a third country on the Union market. As from the withdrawal date, a manufacturer or importer established in the United Kingdom will no longer be considered as an economic operator established in the Union. As a consequence, an economic operator established in the EU-27 who, prior to the withdrawal date, was considered as an EU distributor will become an importer for the purposes of Union product legislation in relation to products from a third country that this economic operator places on the EU-27 market as from the withdrawal date. This operator will have to comply with the specific obligations relevant to an importer, which are different from those of a distributor.[10]

Currently, Union product legislation does not generally oblige the manufacturer to designate an **authorised representative**.[11] However, if the manufacturer chooses to do so, the applicable legislation requires the authorised representative to be established in the Union. In addition, specific Union legislation does provide for the obligation to have

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6 The concept of placing on the market refers to each individual product and not to types of products, and whether it was manufactured as an individual unit or in series. For more information on the concept of placing on the market, see Chapter 2 of Commission Notice 2016/C 272/01 "The Blue Guide on the implementation of EU product rules 2016", OJ C 272, 26.7.2016, p. 1 (hereinafter referred to as "the Blue Guide").

7 This note does not deal with the placing on the UK market as from the withdrawal date.

8 Several elements are commonly present in the different pieces of EU product legislation, regardless of the harmonisation technique adopted by the legislator (e.g. the notion of placing on the market and making available of a product; the definitions of the economic operators). In addition to such common elements, Union legislation based on the so-called New Approach also shares the same approach to technical harmonisation, by setting out common requirements ("essential requirements", expressed in the form of performance requirements or objectives to be attained) on how a product has to be designed and manufactured to meet the required level of e.g. health, safety or environmental protection as well as the conformity assessment procedure, which is chosen from among a common set of modules, that has to be followed to demonstrate compliance with such requirements. For more information in this regard, please see the Blue Guide.

9 Union product legislation defines as economic operators the manufacturer, the importer, the distributor and the authorised representative.

10 See Chapter 3 of the Blue Guide.

11 The Commission proposal for a Regulation of the European Parliament and of the Council laying down rules and procedures for compliance with and enforcement of Union harmonisation legislation on products (COM (2017) 795 final of 19.12.2017: https://ec.europa.eu/docsroom/documents/26976) provides for the obligation to have a person responsible for compliance information established in the Union in respect of all products that are subject to the Union harmonisation legislation set out in the Annex to the proposed Regulation.

an authorised representative (e.g. Union legislation on medical devices[12], transportable pressure equipment[13] or marine equipment[14]) or a responsible person (cosmetic products[15]) established in the Union.

Authorised representatives or responsible persons established in the United Kingdom will not, as from the withdrawal date, be recognised as authorised representatives or responsible persons for the purposes of the applicable Union product legislation. Therefore, manufacturers are advised to take the necessary steps to ensure that, as from the withdrawal date, their designated authorised representatives or responsible persons are established in the EU-27.

2. CONSEQUENCES FOR CONFORMITY ASSESSMENT PROCEDURES AND NOTIFIED BODIES

In some product areas, Union legislation requires the intervention of a qualified third party, known as Notified Body, in the conformity assessment procedure.

Union product legislation requires Notified Bodies to be established in a Member State and be designated by a Member State notifying authority for performing the conformity assessment tasks set out in the relevant act of Union product legislation. Therefore, as from the withdrawal date, UK Notified Bodies will lose their status as EU Notified Bodies and will be removed from the Commission's information system on notified organisations (NANDO database[16]). As such, UK bodies will not be in a position to perform conformity assessment tasks pursuant to Union product legislation as from the withdrawal date.

When the applicable conformity assessment procedure requires or provides for the possibility of third party intervention, a certificate delivered by a body recognised as an EU Notified Body at the time of the placing of that product on the market will be required for products placed on the market as from the withdrawal date.

Economic operators are advised to take the necessary steps to ensure that, where the applicable conformity assessment procedures require the intervention of a Notified Body, they will hold certificates issued by an EU-27 Notified Body to demonstrate compliance for their products placed on the market as from the withdrawal date.

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[12] Article 14 of Council Directive 93/42/EEC concerning medical devices, OJ L 169, 12.7.1993, p.1, Article 10a of Council Directive 90/385/EEC concerning active implantable medical devices, OJ L 189, 20.7.1990, p. 17 (both Directives to be replaced as of 26 May 2020 by Regulation (EU) 2017/745 of the European Parliament and of the Council, OJ L 117, 5.5.2017, p. 1, where the corresponding provision is Article 11) and Article 10 of European Parliament and Council Directive 98/79/EC on in vitro diagnostic medical devices, OJ L 331, 7.12.1998, p. 1 (to be replaced as of 26 May 2022 by Regulation (EU) 2017/746 of the European Parliament and of the Council, where the corresponding provision is Article 11, OJ L 117, 5.5.2017, p. 176).

[13] Article 5 of Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC, OJ L 165, 30.6.2010, p. 1.

[14] Article 13 of Directive 2014/90/EU of the European Parliament and of the Council on marine equipment, OJ L 257, 28.8.2014, p. 146.

[15] Articles 4 and 5 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products, OJ L 342, 22.12.2009, p. 59.

[16] http://ec.europa.eu/growth/tools-databases/nando/

Where economic operators hold certificates issued by a UK Notified Body prior to the withdrawal date and plan to continue placing the product concerned on the EU-27 market as from the withdrawal date, they are advised to consider either applying for a new certificate issued by an EU-27 Notified Body or arranging for a transfer – on the basis of a contractual arrangement between the manufacturer, the UK Notified Body, and the EU-27 Notified Body - of the file and the corresponding certificate from the UK Notified Body to an EU-27 Notified Body, which would then take over the responsibility for that certificate. This responsibility depends on the specific conformity assessment procedure required for the product concerned under the applicable product legislation set out in Annex.

The websites of the Commission on the Single Market for Goods (http://ec.europa.eu/growth/single-market/goods_en and http://ec.europa.eu/growth/sectors_en) provide general information concerning Union harmonisation legislation applicable to non-food and non-agricultural products. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Annex: Indicative list of Union product legislation

This notice applies primarily to:

- Products within the scope of Directive 2001/95/EC on general product safety (OJ L 11, 15.1.2002, p. 4)
- The restriction of the use of certain hazardous substances in electrical and electronic equipment (Directive 2011/65/EU, OJ L 174, 1.7.2011, p. 88) and Directive 2012/19/EU on waste electrical and electronic equipment (OJ L 197, 24.7.2012, p. 38)
- Batteries and waste batteries (Directive 2006/66/EC, OJ L 266, 26.9.2006, p. 1)
- Appliances burning gaseous fuels (Directive 2009/142/EC, OJ L 330, 16.12.2009, p. 10, to be replaced as of 21 April 2018 by Regulation (EU) 2016/426, OJ L 81, 31.3.2016, p. 99)
- Ecodesign requirements for energy-related products (Directive 2009/125/EC, OJ L 285, 31.10.2009, p. 10, and all implementing Regulations for specific product groups that have been adopted under this Framework Directive)
- Simple pressure vessels (Directive 2014/29/EU, OJ L 96, 29.3.2014, p. 45)
- Toys' safety (Directive 2009/48/EC, OJ L 170, 30.6.2009, p. 1)
- Electrical equipment designed for use within certain voltage limits (Directive 2014/35/EU, OJ L 96, 29.3.2014, p. 357)
- Machinery (Directive 2006/42/EC, OJ L 157, 9.6.2006, p. 24)
- Electromagnetic compatibility (Directive 2014/30/EU, OJ L 96, 29.3.2014, p. 79)
- Measuring instruments (Directive 2014/32/EU, OJ L 96, 29.3.2014, p. 149)
- Non-automatic weighing instruments (Directive 2014/31/EU, OJ L 96, 29.3.2014, p. 107)
- Cableway installations designed to carry persons (Directive 2000/9/EC, OJ L 106, 3.5.2000, p. 21, to be replaced as of 21 April 2018 by Regulation (EU) 2016/424, OJ L 81, 31.3.2016, p. 1)
- Radio equipment (Directive 2014/53/EU, OJ L 153, 22.5.2014, p. 62)
- Medical devices and Active implantable medical devices (Directives 93/42/EEC, OJ L 169, 12.7.1993, p. 1, and 90/385/EEC, OJ L 189, 20.7.1990, p. 17, to be replaced as of 26 May 2020 by Regulation (EU) 2017/745, OJ L 117, 5.5.2017, p. 1, with the exception of the provisions of Directives 93/42/EEC and 90/385/EEC listed in Article 122 of Regulation 2017/45, for which a later date of repeal is provided for)
- In vitro diagnostic medical devices (Directive 98/79/EC, OJ L 331, 7.12.1998, to be replaced as of 26 May 2022 by Regulation (EU) 2017/746, OJ L 117, 5.5.2017,

p. 176, with the exception of the provisions of Directive 98/79/EC listed in Article 112 of Regulation 2017/46, for which a later date of repeal is provided for)

- Cosmetics (Regulation (EC) 1223/2009, OJ L 342, 22.12.2009, p. 59)
- Pressure equipment (Directive 2014/68/EU, OJ L 189, 27.6.2014, p. 164)
- Transportable Pressure equipment (Directive 2010/35/EU, OJ L 165, 30.6.2010, p. 1)
- Aerosol Dispensers (Directive 75/324/EEC, OJ L 147, 9.6.1975, p. 40)
- Lifts and safety components for lifts (Directive 2014/33/EU, OJ L 96, 29.3.2014, p. 251)
- Recreational craft and personal watercraft (Directive 2013/53/EU OJ L 354, 28.12.2013, p. 90)
- Equipment and protective systems intended for use in potentially explosive atmospheres (Directive 2014/34/EU, OJ L 96, 29.3.2014, p. 309)
- Explosives for civil uses (Directive 2014/28/EU, OJ L 96, 29.3.2014, p. 1)
- Construction products (Regulation (EU) No 305/2011, OJ L 88, 4.4.2011, p. 5)
- Pyrotechnics (Directive 2013/29/EU, OJ L 178, 28.6.2013, p. 27)
- Regulation on the Labelling of Tyres (Regulation (EC) No 1222/2009, OJ L 342, 22.12.2009, p. 46)
- Personal protective equipment (Directive 89/686/EEC, OJ L 399, 30.12.1989, p. 18, to be replaced as of 21 April 2018 by Regulation (EU) 2016/425, OJ L 81, 31.3.2016, p. 51)
- Marine equipment (Directive 2014/90/EU, OJ L 257, 28.8.2014, p. 146)
- Noise emission in the environment by equipment for use outdoors (Directive 2000/14/EC, OJ L 162, 3.7.2000, p. 1)
- Energy labelling (Regulation (EU) No 2017/1369, OJ L 198, 28.7.2017, p. 1, and all delegated Regulations for specific product groups that have been adopted under this Framework Regulation and those adopted under Directive 2010/30/EU, OJ L 153, 18.6.2010, p. 1, the predecessor of Regulation 2017/1369).
- Regulation on textile fibre names and related labelling and marking of textile products (Regulation (EU) No 1007/2011, OJ L 272, 18.10.2011, p. 1)
- Directive relating to labelling of the materials used in the main components of footwear (Directive 94/11/EC, OJ L 100, 19.4.1994, p. 37)
- Metrology - (Directive 2011/17/EU OJ L 71, 18.3.2011, p. 1 - Repeal of several directives – transition till 2025)
- Bottles as measuring containers (Directive 75/107/EEC, OJ L 42, 15.2.1975, p. 14)

- Making up of pre-packaged products (Directive 76/211/EEC, OJ L 46, 21.2.1976, p. 1)

- Hot-water boilers fired with liquid or gaseous fuels (Directive 92/42/EEC, OJ L 167, 22.6.1992, p. 17. The Directive was repealed by Commission Regulation (EU) No 813/2013 (OJ L 239, 6.9.2013, p. 136) implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for space heaters and combination heaters, except for Articles 7(2) and 8 thereof and Annexes III to V thereto)

- Interoperability of the rail system within the European Union (Directive 2008/57/EC, OJ L 191, 18.7.2008, p. 1, to be replaced as of 16 June 2020 by Directive (EU) 2016/797, OJ L 138, 26.5.2016, p. 44)

- Interoperability of Electronic Road Toll Systems (Decision 2009/750/EC implementing Directive 2004/52/EC, OJ L 268, 13.10.2009, p. 11)

- Tachographs in road transport (Regulation (EU) No 165/2014, OJ L 60, 28.2.2014, p. 1)

- Interoperability of the European Air Traffic Management network (Regulation (EC) No 552/2004, OJ L 96, 31.3.2004, p. 26)

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

Brussels, 1 February 2019

QUESTIONS AND ANSWERS RELATED TO THE UNITED KINGDOM'S WITHDRAWAL FROM THE EUROPEAN UNION WITH REGARD TO INDUSTRIAL PRODUCTS

On 22 January 2018, the European Commission services published a "*Notice to stakeholders – withdrawal of the United Kingdom and EU rules in the field of industrial products*" ('the Notice').[1] An indicative list of Union product legislation to which the Notice applies can be found in its Annex.

This list of Questions and Answers (Q&A) gives further guidance on the basis of the Notice in a situation where the United Kingdom (UK) becomes a third country on 30 March 2019 at 00:00h (CET) ('the withdrawal date') without a ratified withdrawal agreement and hence

- without the transition period provided for in the draft Withdrawal Agreement; and

- without the provisions in relation to "goods placed on the market" provided for in the draft Withdrawal Agreement.

The list of Q&A may be further updated and complemented as necessary and should be read in conjunction with any complementary, more specific notices or Q&A on the legal consequences of the UK's withdrawal that have been or may be published with regard to any of the Union acts listed in the Annex to the Notice.

A. CONCEPT OF GOODS PLACED ON THE UNION (EU-27) MARKET BEFORE THE WITHDRAWAL DATE

The relevant criterion to determine the extent to which there may be consequences from the UK withdrawal for a specific product covered by the Notice is whether a product was placed on the Union (EU-27) market before the withdrawal date.

The concept of placing on the market refers to each individual product, not to a type of products, whether it was manufactured as an individual unit or in series. It relates to the first making available on the Union (EU-27) market, i.e. the first supply of a good for distribution, consumption or use after the manufacturing stage. Placing on the market

[1] https://ec.europa.eu/info/sites/info/files/file_import/industrial_products_en_1.pdf

does not require physical delivery of the product but does require that the manufacturing stage has been completed.[2]

1. **Goods physically in the distribution chain or already in use in the EU-27 market on the withdrawal date.**

   Example: a cosmetic product held in the EU-27 by a wholesaler with a view to onward distribution or already on the shelf of a department store; an X-ray machine (medical device) certified by a UK Notified Body held in the EU-27 by a wholesaler or already supplied to a hospital in the EU-27, where it is in use.

   These goods are considered as placed on the Union (EU-27) market before the withdrawal date and can therefore continue to be made available in the EU-27 market or remain in use with no need for re-certification, re-labelling or product modifications. This is without prejudice to the obligation to appoint a new 'responsible person' established in the EU-27 where the current one is UK-based as set out under Section B below.

2. **Goods manufactured either in the EU or in a third country, sold to an EU-27 customer before the withdrawal date after the manufacturing stage was completed but not yet physically delivered to the EU-27 customer on that date.**

   Example: an X-ray machine manufactured in the US and certified by a UK Notified Body has been sold to a Dutch hospital on 15 March 2019 (=date of placing on the market, i.e. date of the transaction) but will only arrive at Dutch customs on 5 April 2019.

   Same as the goods under Q&A No. 1. The date of placing on the Union (EU-27) market is the date of the transaction between the manufacturer and the EU-27 customer after the manufacturing stage was completed. Placing on the market does not require physical delivery of the product.

3. **Goods imported into the UK from a third country or manufactured in the UK, subsequently sold to an EU-27 customer before the withdrawal date but physically delivered to the EU-27 customer as of that date.**

   Example A: an X-ray machine manufactured in the US and certified by a UK Notified Body is sold to a UK wholesaler on 15 February 2019 and imported by the latter into the UK on 15 March 2019. The UK wholesaler then sells it to a Dutch hospital on 25 March 2019 and the X-ray machine arrives at Dutch customs on 5 April 2019.

   Example B: an X-ray machine manufactured in the UK and certified by a UK Notified Body is sold either directly to the Dutch hospital or via a UK

[2] For more information on the concept of placing on the market, see Chapter 2 of Commission Notice 2016/C 272/01 "The Blue Guide on the implementation of EU product rules 2016", OJ C 272, 26.7.2016, p. 1.

distributor, in both cases the date of the transaction with the Dutch hospital is 25 March 2019, arrival at Dutch Customs on 5 April 2019.

In both examples, same as the goods under Q&A No. 1 and 2. The date of placing on the Union (EU-27) market is the date of the transaction between the UK economic operator (manufacturer, importer or distributor) to the EU-27 customer. Placing on the market does not require physical delivery of the product.

4. Goods imported into the UK from a third country or manufactured in the UK before the withdrawal date, subsequently sold to an EU-27 customer as of the withdrawal date.

Example A: a circular saw (machinery) manufactured in the US and certified by a UK Notified Body is sold to a UK wholesaler on 15 February 2019 and imported by the latter into the UK on 15 March 2019. The UK wholesaler then sells it to a Dutch factory on 5 April 2019 and the circular saw arrives at Dutch customs on 15 April 2019.

Example B: a circular saw manufactured in the UK and certified by a UK NB is sold either directly to the Dutch factory or via a UK wholesaler, in both cases the date of the transaction with the Dutch factory is 5 April 2019, arrival at Dutch Customs on 15 April 2019.

In both examples, the goods are placed on the Union (EU-27) market after the withdrawal date as the date of their first making available to an EU-27 customer is on or after the withdrawal date. The goods are considered as imports from a third country and will have to fully comply with the provisions of Union law applicable at the time of their placing on the market. This means in particular that the goods will have to have been certified by an EU-27 Notified Body, where a third-party intervention in their conformity assessment is required. Where applicable, they will also have to indicate the details of the EU-27 importer and of an EU-27 'responsible person'.[3]

5. How can proof of placing on the market before the withdrawal date be given?

Proof of placing on the market can be given on the basis of any relevant document ordinarily used in business transactions (e.g. contract of sale concerning goods which have already been manufactured, invoice, documents concerning the shipping of goods to distribution or similar commercial documents).

In practice, such proof will need to be given in case of checks upon importation into the Union (EU-27) or in case of checks by market surveillance authorities. The documentary evidence provided must make it possible to verify that it corresponds to the individual goods and quantity presented to customs or checked

[3] Please note that, in addition, the EU rules for imports set out in the Union Customs Code, as well as in the EU VAT legislation apply. For more information, please refer to the applicable "Preparedness notices" published here: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud.

by market surveillance authorities, for example, with the reference to the specific identification element of the goods.

B. RESPONSIBLE PERSONS

In some product areas, Union product legislation foresees 'responsible persons' who have specific tasks in relation to ensuring continued regulatory compliance and interfacing with market surveillance authorities. These 'responsible persons' must be established in the Union, for example: the responsible person for cosmetic products;[4] or authorised representatives, whose appointment by the manufacturer is generally voluntary but mandatory in a few sectors, notably: medical devices, transportable pressure equipment, marine equipment. UK-based responsible persons will lose their status as from the withdrawal date, regardless of when products were placed on the market. Therefore, manufacturers need to ensure that, as from the withdrawal date, their designated responsible persons are established in the EU-27.

Where sector-specific databases exist (e.g. the Cosmetic Registration Portal, Eudamed for medical devices), the information on responsible persons is recorded in those databases and any change will therefore be traceable there.

1. **Goods placed on the Union (EU-27) market before the withdrawal date**

   No need for relabelling with the contact details of the new EU-27 responsible persons. The information available in the existing databases or, absent those, information provided by economic operators to the competent national authorities concerning the appointment of a new EU-27 based responsible person shall suffice.

2. **Goods placed on the EU-27 market as of the withdrawal date, whether coming from the UK or another third country**

   These goods will have to fully comply with the provisions of Union law applicable at the time of their placing on the market. This means, *inter alia*, that when required they will have to indicate the details of an EU-27 'responsible person'.

C. IMPORTERS

According to Union product legislation, the importer is the economic operator established in the Union who places a product from a third country on the Union market. As from the withdrawal date, a manufacturer or importer established in the United Kingdom will no longer be considered as an economic operator established in the Union. Union legislation generally requires the contact details of the importer to be provided on the product itself or its label.

1. **Products which were imported into the EU-28 via the UK and placed on the Union (EU-27) market before the withdrawal date**

[4] Regarding the EU rules for cosmetic products, see also the "Notice to stakeholders – withdrawal of the United Kingdom and EU rules in the field of cosmetic products" (https://ec.europa.eu/info/sites/info/files/cosmetic_products_en_0.pdf).

Q&A No. 1 of Section A applies. No change to the labels is required.

2. **Goods imported into the UK market before the withdrawal date and made available to the EU-27 market as of that date.**

   For products entering the EU-27 market as from the withdrawal date in respect of which the EU-28 importers used to be UK-based, EU-27 economic operators which were previously mere distributors of those products will become importers for the purposes of Union law when making those products available in the EU-27 market for the first time (i.e. placing them on the EU-27 market). This will require them to meet more stringent obligations as regards in particular verification of product compliance and, where applicable, the indication of their contact details on the product.

   Regarding the labelling of the importer, Q&A No. 4 of Section A applies: these goods are placed on the Union (EU-27) market after the withdrawal date and, will need to be relabelled with the indication of the EU-27 importer.

D. TRANSFER OF NOTIFIED BODY CERTIFICATES

In some product areas, Union product legislation requires the intervention of a qualified third party, known as Notified Body, in the conformity assessment procedure. Notified Bodies must be established in a Member State and designated by a Member State notifying authority for performing the conformity assessment tasks set out in the relevant act of Union product legislation.

The Notice recalls that for the purposes of placing products on the EU-27 market as of the withdrawal date a certificate of an EU-27 Notified Body will be required. It will therefore be necessary for economic operators to either apply for a new certificate with another EU-27 Notified Body, or arrange for a transfer of the file and the corresponding certificate to an EU-27 Notified Body, which would then take over the responsibility for that certificate. The transfer of certificates from a UK Notified Body to an EU-27 Notified Body needs to take place before the withdrawal date, on the basis of a contractual arrangement between the manufacturer, the UK Notified Body, and the EU-27 Notified Body.

1. **I am a manufacturer of a product for which the certificate has been transferred from a UK Notified Body to an EU-27 Notified Body. Do the EU Declaration of Conformity and the actual Notified Body Certificate need to be updated to document this change?**

   Yes, for products placed on the EU-27 market after the withdrawal date both the EU Declaration of Conformity (drawn up by the manufacturer) and the Notified Body Certificate must be updated accordingly: these documents will need to mention that the certificate is now under the responsibility of an EU-27 Notified Body and indicate both the old UK and the new EU-27 Notified Body's details / identification numbers.

2. **Does the Notified Body number on the product itself need to be changed also for products already on the market or manufactured before the transfer of the certificates occurred?**

If the above mentioned product documentation is in order, no need to change the Notified Body number for products already placed on the EU-27 market or manufactured before the transfer of certificate has taken place and not yet placed on the EU-27 market. However, products manufactured after the transfer of the certificate has taken place should be marked with the new EU-27 Notified Body number and it will not be possible to continue to use the UK Notified Body number until the end of the validity of the original certificate issued by it.

E. ACCREDITATION

Accreditation is an attestation issued by a national accreditation body that a conformity assessment body meets the applicable requirements to carry out a specific conformity assessment activity. Accreditation is the preferred means of demonstrating the technical competence of Notified Bodies, unless Union product legislation provides otherwise. Regulation No 765/2008[5] sets out the legal framework for the organisation and operation of the European accreditation system.

1. **What is the legal status under Union law, as from the withdrawal date, of accreditation certificates delivered by the UK Accreditation Service (UKAS)?**

   The UK Accreditation Service will cease to be a national accreditation body within the meaning and for the purposes of Regulation No 765/2008 as from the withdrawal date. As a consequence, its accreditation certificates will no longer be considered as 'accreditation' within the meaning of Regulation No 765/2008 and no longer valid or recognised in the EU-27 pursuant to that Regulation as of the withdrawal date.[6]

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[5] Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, OJ L 218, 13.8.2008, p. 30.

[6] See also other relevant preparedness notices referring to accreditation, such as the "Notice to stakeholders – withdrawal of the United Kingdom and EU rules on fluorinated greenhouse gases" (https://ec.europa.eu/info/sites/info/files/file_import/fluorinated-gases_en.pdf).

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

Brussels, 21 June 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF REGULATED PROFESSIONS AND THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all persons who need recognition of their professional qualifications with a view to access a regulated profession are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[4]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of recognition of professional qualifications no longer apply to the United Kingdom. This has in particular the following consequences:

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 For recognition procedures that are ongoing on the withdrawal date, the "Joint report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union" establishes that, in respect of the persons covered in that report, these recognition procedures will be completed under Union law (paragraph 32): https://ec.europa.eu/commission/publications/joint-report-negotiators-european-union-and-united-kingdom-government-progress-during-phase-1-negotiations-under-article-50-teu-united-kingdoms-orderly-withdrawal-european-union_en.

1. APPLICATION OF EU RULES ON RECOGNITION OF PROFESSIONAL QUALIFICATIONS

Professionals seeking to access or pursue a regulated profession in a Member State different from the one where they have obtained their qualifications can rely on Directive 2005/36/EC on the recognition of professional qualifications[5] to have their qualifications recognised by that Member State and to pursue their profession there.

Directive 2005/36/EC covers EU citizens with qualifications obtained in one or more EU Member States. Under certain conditions and limitations, Directive 2005/36/EC also covers EU citizens with qualifications obtained in third countries.[6] On the contrary, recognition of qualifications of third country nationals, wherever obtained, is not covered by Directive 2005/36/EC.[7]

Directive 2005/36/EC also provides for a mechanism allowing professionals established in one Member State to move and provide regulated professional services in another Member State on a temporal or occasional basis (Articles 5 to 9 of Directive 2005/36/EC). Provision of such services may be subject to a prior declaration, if required by the host Member State. It may also involve a prior check of qualifications for a limited number of professions and only if this is necessary to avoid serious damage to the health or safety of the service recipients (Article 7(4) of Directive 2005/36/EC).

Other EU rules may provide for the recognition of professional qualifications in relation to specific regulated professions, such as Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts[8] or Directive 98/5/EC to facilitate practice of the profession of lawyer on a permanent basis in a Member

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5 Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

6 Articles 2(2), 3(3) and 10(g) of Directive 2005/36/EC.

7 A number of other EU Directives may, however, offer some limited recognition possibilities to specific categories of third country nationals, e.g. Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21), Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers (OJ L 94, 28.3.2014, p. 375), Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013, p. 96). Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9), Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (OJ L 155, 18.6.2009, p. 17), Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJ L 289, 3.11.2005, p. 15), Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).

8 Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts (OJ L 157, 9.6.2006, p. 87).

State other than that in which the qualification was obtained.[9] This notice does not deal with the recognition of professional qualifications pursuant to those other rules.[10]

2. RECOGNITIONS OF PROFESSIONAL QUALIFICATIONS RECOGNISED BEFORE THE WITHDRAWAL DATE

The withdrawal of the United Kingdom does not affect decisions on the recognition of professional qualifications obtained in the United Kingdom taken before the withdrawal date on the basis of Directive 2005/36/EC by an EU-27 Member State.

3. RECOGNITIONS AS OF THE WITHDRAWAL DATE OF PROFESSIONAL QUALIFICATIONS

As of the withdrawal date, United Kingdom nationals will be third country nationals and hence Directive 2005/36/EC no longer applies to them. It follows that:

- The recognition of professional qualifications of United Kingdom nationals in an EU-27 Member State will be governed by the national policies and rules of that Member State, irrespective of whether the qualifications of the United Kingdom national were obtained in the United Kingdom, in another third country or in an EU-27 Member State.

- The temporary or occasional provision of services by United Kingdom nationals in an EU-27 Member State, even if they are already legally established in an EU-27 Member State will be governed by the national policies and rules of that Member State.

Concerning EU-27 nationals, qualifications obtained in the United Kingdom (hereafter "UK professional qualifications") as of the withdrawal date are third country qualifications for the purpose of EU law. Recognition of such a qualification is no longer covered by the recognition regime of Directive 2005/36/EC (both in respect of EU citizens and of United Kingdom nationals) but, in accordance with Article 2(2) of Directive 2005/36/EC, the recognition will be governed by the national policies and rules of each of the EU-27 Member States.

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[9] Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (OJ L 77, 14.3.1998, p. 36).

[10] EU rules on specific professional occupations are addressed in sectorial "Notices to stakeholders", for example as regards train drivers (see "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of rail transport*"), aviation personnel, such as pilots and cabin crew (see "*Notice to stakeholders - Withdrawal of the United Kingdom and EU aviation safety rules*"), seafarers (see "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules on the minimum level of training of seafarers and the mutual recognition of seafarers' certificates*"), boatmasters on inland waterways (see "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of inland waterways*"), auditors (see "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of statutory audit*"), or persons engaged in road transport (see "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of road transport*"; see also "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules for authorisations and certificates for transporters of live animals, drivers and attendants*"). All "Notices to stakeholders" are available here: https://ec.europa.eu/info/brexit/brexit-preparedness_en.

EU-27 nationals holding UK professional qualifications obtained before the withdrawal date should consult the relevant national authorities to assess whether it is advisable to obtain, before the withdrawal date, the recognition of those UK professional qualifications in an EU-27 Member State.

The website of the Commission on free movement of professionals provides for general information concerning recognition issues. (https://ec.europa.eu/growth/single-market/services/free-movement-professionals/qualifications-recognition_en) These pages will be updated with further information, where necessary.

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EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

Brussels, 18 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF PUBLIC PROCUREMENT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, economic operators are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[4]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date the EU rules in the field of public procurement no longer apply to the United Kingdom.[5] This has in particular the following consequences for public procurement procedures launched by EU Member States authorities as of the withdrawal date:

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 For public procurement procedures that are ongoing on the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on on-going Public Procurement Procedures are available here: https://ec.europa.eu/commission/publications/position-paper-going-public-procurement-procedures_en.

5 Thus, all guarantees associated with EU Public Procurement Law will cease to apply to economic operators interested or participating in public procurement procedures in the United Kingdom. See https://ec.europa.eu/commission/sites/beta-political/files/public_procurement.pdf for a list of instruments forming part of the EU Public Procurement Law acquis.

- Economic operators from the United Kingdom will have the same status as all other economic operators based in a third country with which the EU does not have any agreement providing for the opening of the EU procurement market.[6] They shall therefore be subject to the same rules as any third country tenderer.

- Article 85 of Directive 2014/25/EU regulating procurement procedures for the purchase of supplies by entities operating in the water, energy, transport and postal services sectors[7], sets forth that tenders submitted in the EU may be rejected if the proportion of the products originating in third countries with which the EU has not concluded an agreement ensuring comparable and effective access for EU undertakings to the markets of those third countries, exceeds 50% of the total value of the products constituting the tender. Even where such offers are not rejected, they shall not lead to the award of a contract if there are equivalent offers with less than 50% of the products originating in third countries. Therefore, tenders in this type of EU procurements offering more than 50% of products originating from the United Kingdom and other third countries may be rejected or may not be awarded a contract.

- As clarified by Recital 18 of Directive 2009/81/EC regulating procurement procedures by contracting authorities or entities in the field of defence and security[8], EU Member States will retain the power to decide whether or not their contracting authorities/entities may allow economic operators from third countries to participate in their defence and security procurement procedures. Economic operators from the United Kingdom may therefore be excluded from bidding for defence and security contracts in the EU.

- Furthermore, Article 22 of Directive 2009/81/EC provides that Member States shall recognise the security clearances which they consider equivalent to those issued in accordance with their national law. Since, as of the withdrawal date, the United Kingdom ceases to be a member of the Union, EU Member States will no longer be under the obligation to recognise security clearances obtained by an economic operator in the United Kingdom, even where they could consider them as equivalent to their national security clearances. This may lead to the exclusion of operators relying on a United Kingdom security clearance in EU defence and security public procurement procedures.

The webpage of the Commission on public procurement (https://ec.europa.eu/growth/single-market/public-procurement_en) provides for general information concerning public procurement procedures in the EU. This page will be updated with further information, where necessary.

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6 This is without prejudice to any possible future accession of the United Kingdom to the Government Procurement Agreement.

7 OJ L 94, 28.3.2014, p. 243.

8 OJ L 216, 20.8.2009, p. 76.

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DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMEs

Brussels, 25 September 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF PYROTECHNIC ARTICLES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, economic operators in the field of pyrotechnic articles are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of pyrotechnic articles, and in particular 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[3], no longer apply to the United Kingdom. This has in particular the following consequences for pyrotechnic articles placed on the EU market as of the withdrawal date:[4]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 A third country is a country not member of the EU.

3 OJ L 178, 28.6.2013, p. 27.

4 In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom concerning goods placed on the EU market *before* the end of the transition period. See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf.

1. OBLIGATIONS OF IMPORTERS; CONFORMITY ASSESSMENT PROCEDURES AND NOTIFIED BODIES

The *Notice to stakeholders – Withdrawal of the United Kingdom and EU rules in the field of industrial products*[5] is also relevant for the EU rules on pyrotechnic articles. This holds in particular for the identification of economic operators (an economic operator established in the EU-27 who, prior to the withdrawal date, was considered as an EU distributor will become an importer for the purpose of Directive 2013/29/EU), and the requirement to hold a certificate issued by an EU-27 notified body as of the withdrawal date.

2. LABELLING OF PYROTECHNIC ARTICLES

According to Article 1 of Commission Implementing Directive 2014/58/EU setting up a system for the traceability of pyrotechnic articles[6], pyrotechnic products have to be labelled with a registration number comprising, *inter alia*, the identification number of the notified body, as well as the processing number used by the notified body for the pyrotechnic article. The registration number is assigned by the notified body.[7]

As of the withdrawal date, pyrotechnic articles placed on the EU market can no longer be labelled with a registration number assigned by a notified body established in the United Kingdom.

The website of the Commission on the EU legislation on pyrotechnic articles (https://ec.europa.eu/growth/sectors/chemicals/legislation_en#pyrotechnics) provide for general information concerning pyrotechnic articles. These pages will be updated with further information, where necessary.

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5 https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#grow

6 OJ L 115, 17.4.2014, p. 28.

7 See recital 2 of Commission Implementing Directive 2014/58/EU.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

Brussels, 27 April 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU LEGISLATION IN THE FIELD OF SUPPLEMENTARY PROTECTION CERTIFICATES FOR MEDICINAL PRODUCTS AND PLANT PROTECTION PRODUCTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products[4] and Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products[5] will no longer apply to the United Kingdom. This has in particular the following consequences.

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products, OJ L 152, 16.6.2009, p. 1.

5 Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products, OJ L 198, 8.8.1996, p. 30.

1. CALCULATION OF DURATION OF SUPPLEMENTARY PROTECTION CERTIFICATES IN THE EU-27

Article 13 of Regulation (EC) No 469/2009 and Article 13 of Regulation (EC) No 1610/96 establish that the supplementary protection certificate shall take effect at the end of the lawful term of the basic patent for a period equal to the period which elapses between the date on which the application for a basic patent was lodged and the date of the first authorisation to place the product on the market in the European Union, reduced by a period of five years.[6] [7]

An authorisation to place the product on the market granted by a United Kingdom competent authority as of the withdrawal date will not be considered a first authorisation to place the product on the market in the European Union for the purposes of Article 13 of Regulation (EC) No 469/2009 and Article 13 of Regulation (EC) No 1610/96.

However, an authorisation to place the product on the market granted by a United Kingdom competent authority before the withdrawal date is to be considered as the first authorisation to place the product on the market in the European Union for the purposes of Article 13 of Regulation (EC) No 469/2009 and Article 13 of Regulation (EC) No 1610/96 on the duration of the certificate.[8]

2. APPLICATIONS FOR SUPPLEMENTARY PROTECTION CERTIFICATES AS OF THE WITHDRAWAL DATE IN THE UNITED KINGDOM

As of the withdrawal date, Regulation (EC) No 469/2009 and Regulation (EC) No 1610/96 no longer apply to the United Kingdom.[9]

The website of the Commission (https://ec.europa.eu/growth/industry/intellectual-property/patents/supplementary-protection-certificates_en) provides general information concerning supplementary protection certificates. This page will be updated with further information on the United Kingdom's withdrawal, where necessary.

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[6] They also state that, in any event, the duration of any certificate may not exceed five years from the date on which it takes effect.

[7] This duration of the certificate for medicinal products may be extended by six months in certain cases, in accordance with Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use (OJ L 378, 27.12.2006, p. 1).

[8] Also for the purposes of Article 3(b) of Regulation (EC) No 469/2009, Article 3(1)(b) of Regulation (EC) No 1610/96 (valid authorisation has been granted), Article 8(1)(a)(iv) (content of the application for a certificate), and Article 11(1)(e) (publication) of those Regulations.

[9] For applications for a supplementary protection certificate submitted before the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on Intellectual property rights are available here: https://ec.europa.eu/commission/publications/position-paper-intellectual-property-rights-including-geographical-indications_en.

EUROPEAN COMMISSION
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

EUIPO
EUROPEAN UNION INTELLECTUAL PROPERTY OFFICE

Brussels, 22 January 2018 (rev)

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES FOR TRADEMARKS AND COMMUNITY DESIGNS PURSUANT TO REGULATION (EU) 2017/1001 ON THE EUROPEAN UNION TRADE MARK AND REGULATION (EC) NO 6/2002 ON COMMUNITY DESIGNS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, EU rules on EU trade marks and Community designs will no longer apply to the United Kingdom.

As a result, EU trade marks and registered Community designs registered in accordance with Union law (Regulation (EU) 2017/1001 on the European Union trade mark[4] and Regulation (EC) No 6/2002 on the Community designs[5]) as well as unregistered Community designs made available to the public in the manner provided for in Union law (Regulation (EC) No 6/2002) before the withdrawal date will continue to be valid in the EU27 Member States but will have no longer effect in the United Kingdom as from the withdrawal date. Any application for an EU trade mark or for a registered

1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark, OJ L 154, 16.6.2017, p. 1.

5 Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs, OJ L 3, 5.1.2002, p. 1.

Community design pending before the withdrawal date will no longer cover the United Kingdom as from that date. Any right granted by the European Union Intellectual Property Office on or after the withdrawal date will only cover the EU27 Member States. All existing seniority claims in EU trade marks based on national trade mark rights in the United Kingdom will cease to have an effect in the EU as from the withdrawal date.[6]

In addition, the holders of international registrations of trade marks and designs having designated the European Union before the withdrawal date pursuant to the Madrid system for the international registration of marks and the Hague system for the international deposit of industrial designs, should consider that, as from that date, those international registrations will continue to be valid in the EU27 Member States only and thus will no longer have effect in the United Kingdom.

In this regard, holders of a European Union (EU) trade mark pursuant to Union law or of a registered Community design or of an unregistered Community Design pursuant to Union law, all applicants for an EU trade mark or for a registered Community design or any business operator who can potentially rely on such Regulations (hereinafter referred to as 'right-holders and applicants') are reminded that preparing for the withdrawal is not just a matter for European and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all right-holders and applicants are reminded of certain legal repercussions stemming from currently applicable rules of Union law when the United Kingdom becomes a third country, and which need to be considered and anticipated.

<u>In particular, the following should be considered by right-holders and applicants:</u>

- Natural or legal persons that are domiciled or have a seat in the United Kingdom only will have to be represented before the European Union Intellectual Property Office in accordance with Article 120(1) of Regulation (EU) 2017/1001 (on the European Union trade mark) and Article 78(1) of the Regulation (EC) No 6/2002 (on Community designs) in all proceedings provided for in those two Regulations, other than the filing of an application for an EU trade mark or an application for a registered Community design.

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European Union Intellectual Property Office

[6] The EU is trying to agree solutions for some of the issues that might arise. The essential principles of the EU's position on intellectual property rights (including geographical indications) is available here: https://ec.europa.eu/commission/publications/position-paper-intellectual-property-rights-including-geographical-indications_en.

EUROPEAN COMMISSION
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Brussels, 8 February 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF TYPE-APPROVAL OF MOTOR VEHICLES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[4]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, Directive 2007/46/EC[5] establishing a framework for the approval of motor vehicles and their trailers and of systems, components and separate technical units intended for such vehicles (hereinafter collectively referred to as "motor vehicles") will no longer apply to the United Kingdom as of the withdrawal date. This has in particular the following consequences:

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 For goods placed on the EU market *before* the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods placed on the market under Union law before the withdrawal date are available here: https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en.

5 Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (OJ L 263, 9.10.2007, p. 1).

This notice is relevant for **motor vehicles placed on the EU-27 market[6] as from the withdrawal date.**

Separate notices will be issued concerning the legal consequences of the United Kingdom's withdrawal with respect to vehicles falling within the scope of Regulation (EU) No 167/2013[7] (agricultural and forestry vehicles), Regulation (EU) No 168/2013[8] (two- or three-wheeled vehicles and quadricycles) and Regulation (EU) No 2016/1628[9] (non-road mobile machinery).

1. CONSEQUENCES FOR THE IDENTIFICATION OF ECONOMIC OPERATORS

Pursuant to Article 5(3) of Directive 2007/46/EC, manufacturers established outside the Union must appoint a representative established in the Union to represent them before the Member State type-approval authorities.

Manufacturers' representatives established in the United Kingdom will not, as from the withdrawal date, be considered as established in the Union for the purposes of Article 5(3). Therefore, to the extent that Directive 2007/46/EC is still relevant to their activities, manufacturers established outside the Union are advised to take the necessary steps to ensure that, as from the withdrawal date, their appointed representatives are established in the EU-27.

2. CONSEQUENCES FOR TYPE-APPROVALS AND TYPE-APPROVAL AUTHORITIES

Motor vehicles within the scope of Directive 2007/46/EC may only be registered, sold and enter into service if they are accompanied by a valid certificate of conformity issued by the manufacturer attesting that the vehicles have been manufactured in conformity with the EU type-approval granted by a Member State authority.[10]

For the purposes of Directive 2007/46/EC, "approval authority" means *"the authority of a Member State with competence for all aspects of the approval of a type of vehicle, system, component or separate technical unit or of the individual approval of a vehicle; for the authorisation process, for issuing and, if appropriate, withdrawing approval certificates; for acting as the contact point for the approval authorities of other Member*

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[6] The concept of placing on the market refers to each individual product, not to a type of product, irrespectively of whether it was manufactured as an individual unit or in series (cf. section 2.2 of Commission Notice 2016/C 272/01 "The Blue Guide on the implementation of EU product rules 2016", OJ C 272, 26.7.2016, p. 1, hereinafter referred to as "the Blue Guide").

[7] Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles, OJ L 60, 2.3.2013, p. 1.

[8] Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheeled vehicles and quadricycles, OJ L 60, 2.3.2013, p. 52).

[9] Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC, OJ L 252, 16.9.2016, p. 53.

[10] Cf. Articles 4(3), 18 and 26 of Directive 2007/46/EC.

States; for designating the technical services and for ensuring that the manufacturer meets his obligations regarding the conformity of production".[11]

As from the withdrawal date, Directive 2007/46/EC will cease to apply to the United Kingdom. This means that, as from that date, the United Kingdom approval authority will cease to be an EU type-approval authority under Directive 2007/46/EC. As a result, it will not be possible as from the withdrawal date for a manufacturer to place on the Union market motor vehicles accompanied by a certificate of conformity referring to a type-approval granted by the United Kingdom approval authority formerly competent under EU law. In particular, the United Kingdom approval authority will no longer be in a position to perform any of the functions and activities of an approval authority for the purposes of Directive 2007/46/EC with respect to type-approvals it granted prior to the withdrawal date. Moreover, the United Kingdom approval authority will no longer be able to issue revisions or extensions to such approvals on the basis of Article 14 of Directive 2007/46/EC.

With respect to type-approvals granted by the United Kingdom authority prior to the withdrawal date, the Commission is considering the necessary and appropriate steps to ensure and facilitate continued compliance with EU law.

The website of the Commission on automotive industry (https://ec.europa.eu/growth/sectors/automotive_en) provides general information concerning Union harmonisation legislation applicable to type-approval of motor vehicles. These pages will be updated with further information, where necessary.

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[11] Article 3, point 29, of Directive 2007/46/EC.

EUROPEAN COMMISSION
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Brussels, 28 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF TYPE-APPROVAL OF CERTAIN VEHICLES AND ENGINES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[4]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, Regulation (EU) No 167/2013 on the approval and market surveillance of agricultural and forestry vehicles[5], Regulation (EU) No 168/2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles[6], and Regulation (EU) No 2016/1628 on requirements relating to gaseous and particulate pollutant

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 For goods placed on the EU market *before* the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods placed on the market under Union law before the withdrawal date are available here: https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en.

5 Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles, OJ L 60, 2.3.2013, p. 1.

6 Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles, OJ L 60, 2.3.2013, p. 52.

emission limits and type-approval for internal combustion engines for non-road mobile machinery[7] (hereafter "**the Regulations**") will no longer apply to the United Kingdom as of the withdrawal date.

This notice is relevant for **vehicles and engines within the scope of the Regulations and placed on the EU-27 market[8] as from the withdrawal date.**

A separate notice has been issued concerning the legal consequences of the United Kingdom's withdrawal with respect to vehicles falling within the scope of Directive 2007/46/EC[9] (motor vehicles).[10]

1. CONSEQUENCES FOR THE IDENTIFICATION OF ECONOMIC OPERATORS

Pursuant to Articles 8(4) and 8(5) of Regulation (EU) No 167/2013, Articles 9(4) and 9(5) of Regulation (EU) No 168/2013, and Articles 8(10) and 8(11) of Regulation (EU) No 2016/1628, respectively, manufacturers established outside the Union must appoint a single representative established in the Union to represent them before the Member State type-approval authorities and for the purposes of market surveillance.

Manufacturers' representatives established in the United Kingdom will not, as from the withdrawal date, be considered as established in the Union for the purposes of the aforementioned Articles. Therefore, to the extent that the Regulations are still relevant to their activities, manufacturers established outside the Union are advised to take the necessary steps to ensure that, as from the withdrawal date, their appointed representatives are established in the EU-27.

2. CONSEQUENCES FOR TYPE-APPROVALS AND TYPE-APPROVAL AUTHORITIES

Vehicles within the scope of Regulations (EU) No 167/2013 and (EU) No 168/2013 may only be placed on the market, registered or entered into service if they are accompanied by a valid certificate of conformity issued by the manufacturer attesting that the vehicles have been manufactured in conformity with the EU type-approval granted by a Member State authority.[11]

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[7] Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC, OJ L 252, 16.9.2016, p.53.

[8] The concept of placing on the market refers to each individual product and not to types of products, and whether it was manufactured as an individual unit or in series. For more information on the concept of placing on the market, see Chapter 2 of Commission Notice 2016/C 272/01 "The Blue Guide on the implementation of EU product rules 2016", OJ C 272, 26.7.2016, p. 1 (hereinafter referred to as "the Blue Guide").

[9] Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, OJ L 263, 9.10.2007, p. 1.

[10] "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of type-approval of motor vehicles*", published on 8.2.2018 and available here: https://ec.europa.eu/info/brexit/brexit-preparedness_en.

[11] Cf. Articles 33 and 38 of Regulation (EU) No 167/2013 and Articles 6(2), 38 and 43 of Regulation (EU) No. 168/2013.

Regulations (EU) No 167/2013 and (EU) No 168/2013 define "approval authority" as *"the authority of a Member State established or appointed by the Member State and notified to the Commission by the Member State with competence for all aspects of the approval of a type of vehicle, system, component or separate technical unit, for the authorisation process, for issuing and, if appropriate, withdrawing or refusing approval certificates, for acting as the contact point for the approval authorities of other Member States, for designating the technical services and for ensuring that the manufacturer meets his obligations regarding the conformity of production".*[12]

Engines for non-road mobile machinery within the scope of Regulation (EU) No 2016/1628 or non-road mobile machinery in which such engines are installed may only be placed on the market if the engine is covered by a valid EU type-approval.[13]

Regulation (EU) No 2016/1628 defines "approval authority" as *"the authority of a Member State established or appointed by the Member State and notified by it to the Commission and which has competence for: (a) all aspects of the EU type-approval of an engine or of an engine family; (b) the authorisation process; (c) granting and, where appropriate, withdrawing or refusing EU type-approval and issuing EU type-approval certificates; (d) acting as the contact point for the approval authorities of other Member States; (e) designating the technical services; and (f) ensuring that the manufacturer meets its obligations regarding conformity of production."* [14]

As from the withdrawal date, the Regulations will cease to apply to the United Kingdom. This means that, as from that date, the United Kingdom approval authority will cease to be an EU type-approval authority under the Regulations. As a result, it will not be possible as from the withdrawal date for a manufacturer to place on the Union market:

(i) vehicles within the scope of Regulations (EU) No 167/2013 and (EU) No 168/2013 accompanied by a certificate of conformity referring to a type-approval granted by the United Kingdom approval authority formerly competent under EU law;

(ii) engines for non-road mobile machinery or non-road mobile machinery in which such engines are installed for which a type-approval was granted by the United Kingdom approval authority formerly competent under EU law.

The United Kingdom approval authority will no longer be in a position to perform any of the functions and activities of an approval authority for the purposes of the Regulations with respect to type-approvals it granted prior to the withdrawal date. Moreover, the United Kingdom approval authority will no longer be able to issue revisions or extensions to such approvals on the basis of Article 30 of Regulation (EU) No 167/2013, Article 35 of Regulation (EU) No 168/2013 or Article 28 of Regulation (EU) No. 2016/1628, respectively.

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[12] See Article 3, point 27 of Regulation (EU) No 167/2013; Article 3, point 56, of Regulation (EU) No 168/2013.

[13] Cf. Article 5(3) of Regulation (EU) No 2016/1628.

[14] Article 3, point 55, of Regulation (EU) No 2016/1628.

With respect to type-approvals granted by the United Kingdom authority prior to the withdrawal date, the Commission is considering the necessary and appropriate steps to ensure and facilitate continued compliance with EU law.

The website of the Commission on automotive industry (https://ec.europa.eu/growth/sectors/automotive_en) provides general information concerning Union harmonisation legislation applicable to type-approval of motor vehicles. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

Brussels, 6 March 2019

QUESTIONS AND ANSWERS RELATED TO THE UNITED KINGDOM'S WITHDRAWAL FROM THE EUROPEAN UNION WITH REGARD TO TYPE-APPROVAL OF VEHICLES, SYSTEMS, COMPONENTS AND SEPARATE TECHNICAL UNITS

On 8 January 2019, the European Parliament and the Council of the European Union adopted Regulation (EU) 2019/26[1], which complements Union type-approval legislation with regard to the withdrawal of the United Kingdom from the Union. [2]

This list of Questions and Answers (Q&A) gives further guidance on the basis of the Regulation in a situation where the United Kingdom (UK) becomes a third country on 30 March 2019 at 00:00h (CET) ('the withdrawal date') <u>without</u> a ratified withdrawal agreement and hence

- **<u>without</u> the transition period provided for in the draft Withdrawal Agreement;**

and

- **<u>without</u> the provisions in relation to "goods placed on the market" provided for in the draft Withdrawal Agreement.**

The list of Q&A may be further updated and complemented as necessary and should be read in conjunction with Regulation (EU) 2019/26, the "*Notice to stakeholders – withdrawal of the United Kingdom and EU rules in the field of type-approval of motor vehicles*"[3] and the "*Notice to stakeholders – withdrawal of the United Kingdom and EU rules in the field of type-approval of certain vehicles and engines*"[4], which were published by the European Commission on 29 January 2018 and 28 March 2018, respectively.

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1 OJ L 8, 10.1.2019, p. 1.

2 Regulation (EU) 2019/26 is adopted within the framework of Directive 2007/46/EC on the approval of motor vehicles, Regulation (EU) 167/2013 on the approval and market surveillance of agricultural and forestry vehicles, Regulation (EU) 168/2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles, Regulation (EU) 2016/1628 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery and Regulation 765/2008/EC on market surveillance.

3 https://ec.europa.eu/growth/content/brexit-%E2%80%93-guidance-stakeholders-impact-type-approval-motor-vehicles_en.

4 https://ec.europa.eu/growth/content/brexit-guidance-stakeholders-impact-type-approval-certain-vehicles-and-engines_en.

A. CONCEPT OF GOODS PLACED ON THE UNION (EU-27) MARKET BEFORE THE WITHDRAWAL DATE

In the event of the UK leaving the EU without a ratified withdrawal agreement, Union type-approval legislation will cease to apply to and in the UK on the withdrawal date. This means that, as from that date, the UK type-approval authority will cease to be a type-approval authority under Union type-approval legislation. As a result, placing on the Union (EU-27) market of products manufactured on the basis of a UK type-approval will no longer be possible as of the withdrawal date.

The relevant criterion to determine the extent to which there may be consequences from the UK withdrawal for a specific vehicle, system, component or separate technical unit manufactured on the basis of a UK type-approval is therefore whether that product was placed on the Union (EU-27) market before the withdrawal date. The concept of "placing on the market" applies consistently to Union product legislation to determine the legal requirements applicable to a specific product: a product must comply with the applicable Union legislation at the time of its placing on the market[5].

In this regard, Regulation (EU) 2019/26 recalls that vehicles, systems, components or separate technical units must conform to the requirements applicable at the time of their placing on the market. The concept of "placing on the market in the Union (EU-27)" must therefore be the concept used also in this framework. 'Placing on the market' means the first supply of a product for distribution, consumption or use in the Union (EU-27) market in the course of a commercial activity, whether in return for payment or free of charge[6]. Placing on the market requires an offer or agreement between two or more legal or natural persons for the transfer of ownership, possession or any other property right concerning a specific product after the stage of manufacture has taken place. The concept of placing on the market refers to each individual product, not to a type of product. Moreover, placing on the market does not require physical delivery of the product but does require that the manufacturing stage has been completed[7].

These principles apply to the automotive sector as harmonised at EU-level as no deviating provisions are laid down in the harmonised legislation of the sector.

Vehicles, complete or incomplete, shall be equipped with a valid certificate of conformity (CoC) based on a valid type-approval by the time of their placing on the EU-27 market. This means that vehicles, complete or incomplete, which were placed on the EU-27 market with a CoC based on a valid UK type-approval prior to the withdrawal date may continue to be made available on the EU-27 market. Without prejudice to the application of the provisions on the placing on the market, registration and entry into

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[5] See Commission Notice 2016/C 272/01 "The Blue Guide on the implementation of EU product rules 2016", OJ C 272, 26.7.2016, p. 1.

[6] See Article 2(2) of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, OJ L 218, 13.8.2008, p. 30. The market surveillance provisions included in this Regulation are applicable in the context of Directive 2007/46/EC on the approval of motor vehicles. See also Regulations (EU) No 167/2013, (EU) No 168/2013 and (EU) 2016/1628.

[7] For more information on the concept of placing on the market, see Chapter 2 of "The Blue Guide on the implementation of EU product rules 2016", cited above.

service of end-of-series vehicles,[8] registration and entry into service as of the withdrawal date will be possible under the conditions set out in Regulations (EU) 2019/26 (see Section B below). As of the withdrawal date, vehicles, systems, components or separate technical units can only be placed on the EU-27 market with a CoC based on a Union (EU-27) type-approval.

1. **Vehicles, systems, components or separate technical units physically in the distribution chain or already in use in the EU-27 market on the withdrawal date.**

   Example A: Tyres already with an EU-27 importer or a motor vehicle already with an EU-27 dealer.

   These products are considered as placed on the Union (EU-27) market before the withdrawal date and can therefore continue to be made available in the EU-27 market (provided the vehicles are equipped with a valid CoC) or remain in use with no need for a (new) Union type-approval, re-labelling/re-marking or product modifications. This is without prejudice to the obligation to appoint a new 'manufacturer's representative' established in the EU-27 where the current one is UK-based and intends to place products on the EU-27 market as of the withdrawal date.

   Example B: An unfinished truck manufactured in the Union (EU-27) prior to the withdrawal date, based on a UK type-approval, subject to multistage production, equipped with a valid CoC and supplied for further assembly or completion in the Union (EU-27) prior to the withdrawal date.

   This example concerns a multistage vehicle where the first stage comprises the chassis-cab (i.e. an incomplete vehicle). In case of a truck, a chassis-cab may be type-approved as the first stage for a vehicle manufacturer, and a bodybuilder (i.e. third party) holds the approval for a subsequent second and final stage. A truck could also be built in multistage procedure by the same manufacturer. In case the incomplete vehicle can be considered having been placed on the EU-27 market, on the basis of a commercial transaction between two entities for the purposes of distribution or use in the EU-27 market prior to the UK withdrawal, the approach is the same as for the products under Example A.

2. **Vehicles, systems, components or separate technical units manufactured either in a third country or in the Union (EU-27) on the basis of a UK type-approval, supplied to an importer/manufacturer's representative in the EU-27 or sold to an EU-27 dealer or customer before the withdrawal date after the manufacturing stage was completed but not yet physically delivered to the EU-27 customer until after the UK withdrawal.**

   Example: A non-road mobile machinery engine manufactured in the US on the basis of a UK type-approval is sold to an EU-27 importer or an original equipment manufacturer of non-road mobile machinery on 28 March 2019 (i.e. date of placing on the market, date of the transaction) but will only arrive at the Union customs on 5 June 2019.

[8] Article 27(3) of Directive 2007/46/EC, Article 39(3) of Regulation (EU) No 167/2013 and Article 44(3) of Regulation (EU) No 168/2013. Cf. also recitals 15 and 19 of the preamble to Regulation (EU) No 2019/26.

Same as the products under Q&A No. 1. The date of placing on the Union (EU-27) market is the date of the transaction between the manufacturer and the EU-27 importer or original equipment manufacturer provided that the manufacturing stage has been completed by that date. Placing on the market does not require physical delivery of the product.

3. **Vehicles, systems, components or separate technical units manufactured on the basis of a UK type-approval, either imported into the UK from a third country or manufactured in the UK before the withdrawal date, subsequently sold to an EU-27 customer as of the withdrawal date.**

   Example: An incomplete vehicle manufactured in Japan based on a UK type-approval and accompanied by a CoC is sold to a UK bodybuilder on 25 February 2019 and imported by the latter into the UK on 10 March 2019. The UK bodybuilder then sells it to an EU-27 dealer on 20 April 2019 and the complete vehicle arrives at the Union customs on 30 April 2019.

   In this example, the incomplete vehicle is placed on the Union (EU-27) market after the withdrawal date as the date of its first making available to an EU-27 customer is on or after the withdrawal date. The incomplete vehicle is considered as a product imported from a third country and will have to fully comply with the provisions of Union law applicable at the time of its placing on the market.

   Products placed on the EU-27 market as of the withdrawal date need to be accompanied by a CoC referring to a type-approval issued by an EU-27 type-approval authority.

4. **Vehicles, systems, components or separate technical units manufactured in a third country on the basis of a UK type-approval after the withdrawal date.**

   Example: A car manufactured in China based on a UK type-approval on 5 April 2019 is sold to an EU-27 dealer on 15 April 2019 and arrives at the Union customs on 1 June 2019.

   In this example, the car cannot be placed on the Union (EU-27) market based on a CoC referring to the UK type-approval. Same as Q&A No. 3.

5. **How can proof of placing on the market before the withdrawal date be given?**

   Proof of placing on the market can be given on the basis of any relevant document ordinarily used in business transactions (e.g. contract of sale concerning goods which have already been manufactured, invoice, documents concerning the shipping of goods to distribution or similar commercial documents).

   In practice, such proof will need to be given in case of checks upon importation into the Union (EU-27) or in case of checks by market surveillance authorities or at the time of registration, for products subject to that requirement. The documentary evidence provided must make it possible to verify that it corresponds to the individual goods and quantity presented to customs or checked by market surveillance authorities or for which registration is requested, for example, with the reference to the specific identification elements of the products.

B. GRANTING OF UNION TYPE-APPROVALS IN ACCORDANCE WITH REGULATION (EU) 2019/26

Article 4 of Regulation (EU) 2019/26 provides that a manufacturer holding a valid UK type-approval may, until the Union type-approval legislation ceases to apply to and in the United Kingdom, submit an application to a Union (EU-27) type-approval authority for a Union type-approval of the same type.

1. New Union type-approval granted and taking effect before the withdrawal date

Under this scenario, the old UK type-approval will become invalid as of the date on which the new Union type-approval takes effect.

Article 5(6), third subparagraph, of Regulation (EU) 2019/26 provides that vehicles, systems, components or separate technical units produced on the basis of a UK type-approval which has become invalid as a result of the granting of a Union type-approval before the withdrawal date may be placed on the market, registered and entered into service in the Union until Union type-approval legislation ceases to apply to and in the United Kingdom. Where the UK type-approval becomes invalid before that date for other reasons, the vehicles, systems, components or separate technical units can only be placed on the market, registered and entered into service in the Union until the date on which the Union type-approval becomes invalid. For vehicles, manufacturers will have to indicate the new Union type-approval number in a supplement to the CoC.

Recital 17 in the preamble to Regulation (EU) 2019/26 clarifies that, *"since the moments of placing on the market, of registration, and of entry into service can differ, the moment when the first of those steps has been undertaken should be used to determine the time limits set out in this Regulation*." Accordingly, a vehicle, system, component or separate technical unit placed on the market before the withdrawal date under the conditions set out in Article 5(6), third subparagraph, may be registered and entered into service also on or after the withdrawal date.

2. New Union type-approval granted on or after the withdrawal date

It is foreseeable that a Union type-approval authority, despite all good intentions, may not be able to process all the applications of different manufactures on time, i.e. prior to the withdrawal date. It is therefore possible that the new Union type-approval, replacing the previous UK type-approval, will be issued only on or after the withdrawal date.

In such a case:

- Vehicles, systems, components or separate technical units produced on the basis of a UK type-approval for which a Union type-approval for the same type has been requested in accordance with Article 4(1) of Regulation (EU) 2019/26 and which have been placed on the EU-27 market before the withdrawal date may be registered and enter into service also on or after the withdrawal date, pending the granting of the new Union type-approval. For vehicles, manufacturers will have to present proof to the competent authorities of the Member State where registration and entry into service is sought that they have submitted an application to a Union type-approval authority for a Union type-approval of the same type in accordance with Article 4(1) of Regulation (EU) 2019/26.

- As of the withdrawal date, production of vehicles, systems, components or separate technical units intended to be placed on the EU-27 market can only take place on the basis of a type-approval granted by an EU-27 type-approval authority.

C. CLARIFICATION ON THE (IN)VALIDITY OF TYPE-APPROVALS ISSUED UNDER DIRECTIVE 97/68/EC

Both Recital 20 and Article 7 of Regulation (EU) 2019/26 are based on the assumption that the type-approvals, which fall under the exemptions and transitional provisions provided in either Directive 97/68/EC or Regulation (EU) 2016/1628, have become invalid.

Directive 97/68/EC does not contain an Article equivalent to Article 30 of Regulation (EU) 2016/1628 that specifies when type-approvals become invalid.

However, Article 10(2) of Directive 97/68/EC lays down an end-of-series provision that relies upon the principle that a type-approval issued for an engine category of a given emission stage becomes invalid from the date of mandatory application, for the purposes of the placing on the market, of the subsequent emission stage in Article 9(4).

Therefore, type-approvals granted under Directive 97/68/EC are considered to become invalid through the mandatory application of new emission requirements for the placing on the market. This is in line with the provisions of Article 7 of Regulation (EU) 2019/26.

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Travel

EUROPEAN COMMISSION
DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION
DIRECTORATE-GENERAL MIGRATION AND HOME AFFAIRS
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT
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DIRECTORATE-GENERAL FOR ENVIRONMENT
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES

Brussels, 13 November 2018
Rev1

NOTICE ON TRAVELLING BETWEEN THE EU AND THE UNITED KINGDOM FOLLOWING WITHDRAWAL OF THE UNITED KINGDOM FROM THE EU

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1. INTRODUCTION

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, persons who plan to travel (for private or business reasons) from the United Kingdom to the EU (and vice-versa) on the withdrawal date or thereafter, and businesses providing services in relation to such travel (travel organisers, travel agencies, car rental companies, trade fairs, transport companies, etc.) are reminded of the legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the withdrawal of the United Kingdom has the following consequences for travellers from the United Kingdom to the EU and vice-versa:[3]

2. BORDER CHECKS ON PERSONS AT THE EU EXTERNAL BORDER[4] [5]

Union law[6] on border checks at the EU external borders on persons distinguishes between controls of EU citizens and of third country nationals. As of the withdrawal date, controls of UK nationals upon entry to and exit from the Schengen area as well as to and from Member States for which the decision on lifting internal controls has

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 A third country is a country not member of the EU.

3 It is recalled that the Withdrawal Agreement between the EU and the United Kingdom would provide for specific solutions addressing the unique circumstances on the island of Ireland.

4 For more information, please consult https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/border-crossing_en.

5 This section does not apply for travels in the Common Travel Area between the United Kingdom and Ireland.

6 Article 8(2) and (3) of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1.

not been taken yet but which apply Schengen rules at their external borders[7] will follow the rules for third country nationals.[8] [9] This means that they will no longer enjoy facilitations at the borders provided for EU citizens, nationals of the contracting states of the European Economic Area, and Swiss nationals ("EU/EEA/CH citizens") related to the free movement rights. In particular, UK nationals will not be entitled to use the separate lanes provided for EU/EEA/CH citizens to carry out checks at border crossings[10] and will be subject to thorough checks of all entry conditions for third country nationals upon entry.

The **entry checks** on UK nationals will include verification of:[11]

- the possession of a valid travel document for crossing the border; the document needs to have a validity of no more than ten years, and shall be still valid for three months after the intended departure from the Member States;

Please note that UK national passports issued prior to the withdrawal date remain valid travel documents.

- the duration of the stay:

  - for short stays in the Schengen area, UK nationals will be subject to limitations as regards the authorised duration of stay within the Schengen area (with a maximum of 90 days in a 180-day period);

  - for long stays, they will in principle require a residence permit or long stay visa issued by national authorities, under the national rules;

- relevant databases with a view to verify:[12]

  - the identity and the nationality of the third-country national and of the authenticity and validity of the travel document for crossing the border, and in particular:

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7 Romania, Bulgaria, Cyprus, and Croatia.

8 Please note that UK nationals who are members of the family of a Union citizen exercising his or her right to free movement are subject to the rules set out in Article 5 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L 158, 30.4.2004, p. 77.

9 It should be noted that parts of these controls do already apply today, to citizens from the United Kingdom, when traveling into or out of the Schengen area.

10 Article 10 of Regulation (EU) 2016/399.

11 Article 6 of Regulation (EU) 2016/399.

12 Please note that the possibility of a temporary derogation from the principle, subject to some conditions, of the systematic checks against relevant databases at some land and sea border crossing points does not apply to third country nationals (Article 8(2) of Regulation (EU) 2016/399).

- if an alert has been issued in the Schengen Information System (SIS) for the purposes of refusing entry and to check possible threats to public policy, internal security, public health and international relations;

- the purpose (e.g. tourism or work) and the conditions of the intended stay (e.g. accommodation, internal travels);

- the existence of sufficient means of subsistence (i.e. having sufficient means to pay for the intended stay and return travel).

The Commission submitted a proposal,[13] on 13 November 2018, to exempt UK nationals from the requirement to be in possession of a short-stay visa ("Schengen-visa")[14] when crossing the external borders, where the intended duration of the stay in the Schengen area is 90 days within a 180-day period. It is now up to the European Parliament and the Council to adopt this proposal. A continued exemption from Schengen visa will require that nationals of all EU Member States are equally exempted from UK short-stay visa requirements, following the visa reciprocity principle.

Travellers are advised to verify, prior to travel, the validity of travel documents and to ensure that they fulfil all the above conditions before they travel to the EU. The non-fulfilment of any of the entry conditions may result[15] in refusal of entry issued in line with the procedure set out in Union law with regard to third country nationals.[16]

Checks on exit include verification of:

- the possession of a valid travel document for crossing the external border;

- verification that the person did not exceed the maximum duration of stay in the territory of the Member States;

- relevant databases similarly as upon entry checks.

Travellers are advised to take account of possible delays at border posts as of the withdrawal date, especially at those with heavy volumes of traffic (Eurostar train stations, Eurotunnel Le Shuttle in Calais and Folkestone, Channel ports, etc).

[13] Proposal COM(2018)745 of 13 November 2018.

[14] Article 6(1)(b) of Regulation (EU) 2016/399.

[15] Regulation (EU) 2016/399 provides for some limited exceptions, where despite the non-fulfilment of entry conditions the third country national can be granted entry.

[16] Article 14 of Regulation (EU) 2016/399.

3. CUSTOMS CONTROLS

As of the withdrawal date, goods which are brought into the customs territory of the EU from the United Kingdom are subject to customs supervision and may be subject to customs controls in accordance with EU customs law.[17] [18]

Luggage and other goods carried by or on travellers entering the EU from the United Kingdom will be subject to customs controls.[19] Allowances are made for travellers' personal effects and certain other items (see section 4.1 below).

In particular, goods which are intended to be put on the EU market or intended for private use or consumption within the customs territory of the EU must be declared for release for free circulation. Further information is available at: https://ec.europa.eu/taxation_customs/individuals/travelling/travelling-europe-what-dohave-know_en

Goods which are temporarily imported may be declared for the temporary admission procedure. To this end, ATA Carnets may be used. ATA Carnets are international customs documents permitting the duty-free and tax-free temporary export and import of goods for up to one year. Additional information is available at: https://iccwbo.org/resources-for-business/ata-carnet/

4. DUTIES, VAT AND EXCISE[20]

4.1. Exemption from duties, VAT and excise

Travellers entering the EU from the United Kingdom carrying goods in their luggage or otherwise with them are entitled to duty free allowances (meaning

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[17] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, OJ L 269, 10.10.2013, p. 1.

[18] The rules set out in this section will apply also to goods brought into the customs territory of the EU from the **Channel Islands** and the **Isle of Man** (Article 4(1) last indent of Regulation (EU) No 952/2013).

[19] Article 46(1) of Regulation (EU) No 952/2013.

[20] Regarding **customs duties**, the rules set out in this section will apply, as of the withdrawal date, also to goods brought into the customs territory of the EU from the **Isle of Man** and the **Channel Islands** (Article 4(1) last indent of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, OJ L 269, 10.10.2013, p. 1).

Regarding **VAT**, the rules set out in this section will apply, as of the withdrawal date, also to goods brought into the VAT territory of the EU from the **Isle of Man** and vice-versa (Article 7(2) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax OJ L 347, 11.12.2006, p. 1) (The Channel Islands are, already today, not part of the EU VAT territory, Article 6(1)(e) of Directive 2006/112/EC).

Regarding **excise**, the rules set out in this section will apply, as of the withdrawal date, also to goods brought into the excise territory of the EU from the **Isle of Man** (Article 6(2)(d) of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty, OJ L 9, 14.1.2009, p. 12) (The Channel Islands are, already today, not part of the EU excise territory, Article 5(2)(d) of Directive 2008/118/EC).

goods exempt from import duty and VAT, and where applicable excise duty). The goods concerned and the corresponding allowances can be found at:

https://ec.europa.eu/taxation_customs/individuals/travelling/entering-eu_en

Travellers are advised to familiarise themselves with the rules concerning duty free allowances and only go through the green customs exit ("green channel") if they have no more than the maximum quantities allowed. Otherwise they should use the red exit ("red channel") and make a customs declaration.

4.2. VAT refunds for goods purchased in the EU[21]

Visitors from outside the EU are entitled to get a refund of VAT paid on goods they have purchased during their stay in the EU provided that the goods are presented to customs on departure from the EU together with the VAT refund documents.

Guide to VAT refund for visitors to the EU

5. PROHIBITIONS AND RESTRICTIONS

EU law prohibits and restricts the introduction or importation of certain goods into the EU on grounds of *inter alia* the protection of human, animal and plant health , the environment or the protection of national treasures.

As of the withdrawal date, these prohibitions and restrictions will apply to goods which enter the EU from the United Kingdom or are leaving the EU to the United Kingdom.[22]

While most prohibitions and restrictions *de jure* or in practice are only relevant for professional traders,[23] some are also relevant for individual travellers:

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[21] In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom to ensure the refund of VAT in relation to transactions prior to the end of the transition period in situations where the refund request could not be submitted by the taxable person or forwarded by his residence State before the end of the transition period. See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf and the "joint statement" from the negotiators of the EU and of the United Kingdom Government presented on 19 June 2018 (https://ec.europa.eu/commission/brexit-negotiations/negotiating-documents-article-50-negotiations-united-kingdom_en).

[22] In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom for movements of goods that have started before and end after the end of the transition period ("sailing goods"). See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf and the "joint statement" from the negotiators of the EU and of the United Kingdom Government presented on 19 June 2018 (https://ec.europa.eu/commission/brexit-negotiations/negotiating-documents-article-50-negotiations-united-kingdom_en).

5.1. Accompanying pets[24]

Union law[25] sets rules for the non-commercial movement of pet dogs, cats and ferrets (hereafter "pets")[26] that accompany travellers coming from third countries.[27] [28]

5.1.1. Non-commercial movements into the EU-27 of pets accompanying a pet owner resident in the United Kingdom

The "EU pet passport"[29] issued before the withdrawal date to a pet owner resident in the United Kingdom will from that date no longer be a valid document for travelling with pets from the United Kingdom to any of the EU-27 Member States as of the withdrawal date.

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[23] For example, the prohibitions and restrictions for waste, or certain chemicals (see, for more information, the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of import/export licences for certain goods*" at https://ec.europa.eu/info/brexit/brexit-preparedness_en).

[24] For more information, please consult https://ec.europa.eu/food/animals/pet-movement_en.

[25] Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals, OJ L 178, 28.6.2013, p. 1.

[26] Please note that, currently, live pet birds accompanying travellers entering the EU have to be accompanied by a veterinary certificate certifying compliance with one of the following requirements: a 30-days isolation prior to departure in the third country, or a 10-day isolation period with testing for avian influenza, or a post import quarantine in the Member State of destination or vaccination against avian influenza. (Commission Decision 2007/25/EC of 22 December 2006 as regards certain protection measures in relation to highly pathogenic avian influenza and movements of pet birds accompanying their owners into the Community (OJ L 8, 13.1.2007, p. 29)).

In addition, regarding live pet birds, requirements for introducing specimens of endangered species may apply (see below, section 5.6).

[27] In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom for live animals the movement of which is ongoing at the end of the transition period. See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf and the "joint statement" from the negotiators of the EU and of the United Kingdom Government presented on 19 June 2018 (https://ec.europa.eu/commission/brexit-negotiations/negotiating-documents-article-50-negotiations-united-kingdom_en).

[28] These rules will also apply, as of the withdrawal date, to the non-commercial movement of pets from the **Channel Islands** and the **Isle of Man** (Regulation (EEC) No 706/73 of the Council of 12 March 1973 concerning the Community arrangements applicable to the Channel Islands and the Isle of Man for trade in agricultural products, OJ L 68, 15.3.1973, p. 1).

[29] Model of pet passport laid down in Part 1 of Annex III to Commission Implementing Regulation (EU) No 577/2013 of 28 June 2013 on the model identification documents for the non-commercial movement of dogs, cats and ferrets, the establishment of lists of territories and third countries and the format, layout and language requirements of the declarations attesting compliance with certain conditions provided for in Regulation (EU) No 576/2013 of the European Parliament and of the Council (OJ L 178, 28.6.2013, p. 109).

The requirements for pets accompanying travellers coming from the United Kingdom as of the withdrawal date will also depend on whether the United Kingdom is "listed", as of that date, as a third country providing certain animal health guarantees. Travellers concerned are advised to enquire, sufficiently in advance of a planned trip from the United Kingdom to the EU, whether the United Kingdom is "listed" in order to establish what requirements apply. The lists adopted by the EU are published here: https://ec.europa.eu/food/animals/pet-movement/eu-legislation/non-commercial-non-eu/listing_en.

5.1.1.1. If the United Kingdom is listed by the Commission in accordance with Article 13(1) of Regulation (EU) No 576/2013[30]

Pets moved into the EU-27 as of the withdrawal date will have to be accompanied by a duly filled-in third country pet passport, the model of which has been adopted by the Commission.[31] This passport must attest a valid anti-rabies vaccination.[32] [33]

In addition, prior to entry into Finland, Ireland or Malta, pet dogs will have to be treated against *Echinococcus multilocularis* and this treatment must be attested by the administering veterinarian in the pet passport.[34]

5.1.1.2. If the United Kingdom is listed by the Commission in accordance with Article 13(2) of Regulation (EU) No 576/2013[35]

An animal health certificate issued by an official veterinarian will be required for each entry of an accompanying pet and only remains valid for movement within the EU-27 Member States for a period of four

[30] See Part 1 of Annex II to Implementing Regulation (EU) No 577/2013.

[31] Part 3 of Annex III to Implementing Regulation (EU) No 577/2013.

[32] Annex III to Regulation (EU) No 576/2013.

[33] The former EU pet passport issued before the date of withdrawal to a pet owner resident in the United Kingdom after that date may serve as supporting documentation to certify a still valid vaccination.

[34] Commission Delegated Regulation (EU) 2018/772 of 21 November 2017 supplementing Regulation (EU) No 576/2013 of the European Parliament and of the Council with regard to preventive health measures for the control of *Echinococcus multilocularis* infection in dogs, OJ L 130, 28.5.2018, p. 1.

[35] See Part 2 of Annex II to Implementing Regulation (EU) No 577/2013.

months.[36] This certificate must attest a valid anti-rabies vaccination.[37] [38]

In addition, prior to entry into Finland, Ireland or Malta, pet dogs will have to be treated against *Echinococcus multilocularis* and this treatment must be attested by the administering veterinarian in the pet passport.[39]

Pets entering the EU-27 as of the withdrawal date will have to be presented to a designated travellers' point of entry[40] in order to undergo the necessary compliance checks.[41]

5.1.1.3. If the United Kingdom is not listed by the Commission

The same conditions as set out in point 5.1.1.2. apply. However, the certificate referred to in point 5.1.1.2. must also attest a valid rabies antibody titration test.[42] The test must have been carried out in an EU-approved laboratory or in a laboratory approved by one of the EU-27 Member States[43] on a sample taken at least 30 days after vaccination and not less than three months before movement.

5.1.2. Non-commercial movements into the EU-27 of pets accompanying a pet owner resident in an EU-27 Member State and returning from the United Kingdom after a temporary movement to the United Kingdom

The requirements for pets accompanying travellers coming from the United Kingdom as of the withdrawal date will also depend on whether the United Kingdom is "listed", as of that date, as a third country providing certain animal health guarantees. Travellers concerned are advised to enquire, sufficiently in advance of a planned trip from the United Kingdom to the EU, whether the United Kingdom is "listed" in order to establish what requirements apply. The lists adopted by the EU are published here: https://ec.europa.eu/food/animals/pet-movement/eu-legislation/non-commercial-non-eu/listing_en

[36] Note (b) in Annex IV to Implementing Regulation (EU) No 577/2013.

[37] Annex III to Regulation (EU) No 576/2013.

[38] The former EU pet passport issued before the date of withdrawal to a pet owner resident in the United Kingdom after that date may serve as supporting documentation to certify a still valid vaccination.

[39] Delegated Regulation (EU) 2018/772.

[40] https://ec.europa.eu/food/animals/pet-movement/eu-legislation/non-commercial-non-eu/tpe_en.

[41] Article 34 of Regulation (EU) No 576/2013.

[42] Annex IV to Regulation (EU) No 576/2013.

[43] https://ec.europa.eu/food/animals/pet-movement/approved-labs_en

5.1.2.1. If the United Kingdom is listed by the Commission in accordance with Article 13(1) of Regulation (EU) No 576/2013[44]

Pets moved into the EU-27 will have to be accompanied by a duly filled-in EU pet passport. This passport must attest a valid anti-rabies vaccination.

In addition, prior to entry into Finland, Ireland or Malta, pet dogs will have to be treated against *Echinococcus multilocularis* and this treatment must be attested by the administering veterinarian in the pet passport.[45]

5.1.2.2. If the United Kingdom is listed by the Commission in accordance with Article 13(2) of Regulation (EU) No 576/2013[46]

The same conditions as set out in point 5.1.2.1. apply.

In addition, pets entering the EU-27 as of the withdrawal date will have to be presented to a designated travellers' point of entry[47] in order to undergo the necessary compliance checks.[48]

5.1.2.3. If the United Kingdom is not listed by the Commission

The same conditions as set out in point 5.1.2.1. apply.

In addition, the pets must have a valid rabies antibody titration test in accordance with Annex IV to Regulation (EU) No 576/2013. The test must have been carried out in an approved laboratory[49]

- either before movement to the United Kingdom on a sample taken at least 30 days after vaccination and documented in the pet passport; or

- in the United Kingdom on a sample taken at least 30 days after vaccination and not less than three months before return to EU-27 Member States and documented in the animal health certificate issued by an official veterinarian

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44 See Part 1 of Annex II to Implementing Regulation (EU) No 577/2013.

45 Delegated Regulation (EU) 2018/772.

46 See Part 2 of Annex II to Implementing Regulation (EU) No 577/2013.

47 https://ec.europa.eu/food/animals/pet-movement/eu-legislation/non-commercial-non-eu/tpe_en.

48 Article 34 of Regulation (EU) No 576/2013.

49 Delegated Regulation (EU) 2018/772.

in the United Kingdom based on supporting documentation from the laboratory.

Pets entering the EU-27 as of the withdrawal date will have to be presented to a designated travellers' point of entry[50] in order to undergo the necessary compliance checks.[51]

5.2. Plants and plant products[52]

Union law[53] prohibits the introduction into the Union of certain plants, plant products and other objects due to their phytosanitary risk. Examples are grapevine or citrus plants for planting, seed potatoes or soil. These prohibitions also apply where plants, plant products and other objects accompany travellers.[54] [55]

As of the withdrawal date, these prohibitions apply also vis-à-vis the United Kingdom.[56]

Travellers concerned are advised to enquire, prior to travelling, the precise scope of these prohibitions.

5.3. Personal consignments of products of animal origin[57]

Union law[58] prohibits the introduction into the EU of certain products of animal origin where they form part of travellers' luggage.[59] This concerns for

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50 https://ec.europa.eu/food/animals/pet-movement/eu-legislation/non-commercial-non-eu/tpe_en.

51 Article 34 of Regulation (EU) No 576/2013.

52 For more information, please consult https://ec.europa.eu/food/animals/animalproducts/personal_imports_en.

53 Article 4 in conjunction with Annex III, Part A of Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community, OJ L 169, 10.7.2000, p. 1.

54 Union law also introduces certain requirements for the introduction into the Union of certain plants, plant products or other objects. However those requirements do not apply to small quantities, see Article 5(4) of Directive 2000/29/EC.

55 New EU rules will apply from 14 December 2019. According to these rules, all prohibitions or import requirements for plants and other commodities from third countries also apply to plants and other commodities accompanying travellers. However, small quantities of certain plants and other commodities may be introduced without a phytosanitary certificate, only if so regulated by a Commission implementing act to be adopted in the future, see Article 75 of Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, OJ L 317, 23.11.2016, p. 4.

56 The rules also apply, as of the withdrawal date, to personal consignments of travellers from the Channel Islands and the Isle of Man (Regulation (EEC) No 706/73 of the Council of 12 March 1973 concerning the Community arrangements applicable to the Channel Islands and the Isle of Man for trade in agricultural products, OJ L 68, 15.3.1973, p. 1).

57 For more information, please consult https://ec.europa.eu/food/animals/animalproducts/personal_imports_en.

example meat and milk and their products like ham and cheese. Exceptions are provided for certain quantities of, for example, powdered infant milk, infant food, and special foods or special processed pet feed required for medical reasons.

As of the withdrawal date, these prohibitions apply also vis-à-vis the United Kingdom.[60]

The Commission has adopted[61] a "leaflet" (annexed) that sets out the detailed rules, as well as the exceptions, for example for medical or nutritional purposes.

5.4. Cash[62]

Union law requires persons that enter or leave the EU carrying EUR 10 000 or more in cash (or its equivalent in other currencies) or in bearer negotiable instruments (easily convertible assets such as cheques drawn on a third party) to make a declaration to the customs authorities of the Member State in which they are entering or leaving the EU.[63]

As of the withdrawal date, this obligation applies also vis-à-vis the United Kingdom.

Customs authorities are empowered under Regulation (EC) No 1889/2005 to undertake controls on individuals, their baggage and their means of transport and detain cash that has not been declared.

Travellers must be aware that all Member States of the EU apply penalties in the event of failure to comply with the obligation to declare as laid down in Regulation (EC) No 1889/2005.

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58 Commission Regulation (EC) No 206/2009 of 5 March 2009 on the introduction into the Community of personal consignments of products of animal origin, OJ L 77, 24.3.2009, p. 1.

59 In this context, while not necessarily directly relevant for travellers, it is recalled that Union law **prohibits the importation into the EU of any catering waste from means of transport operating internationally** (Articles 8(f) and 41(2)(c) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation), OJ L 300, 14.11.2009, p. 1). Such catering waste has to be disposed of in accordance with 12 of Regulation (EC) No 1069/2009 (e.g. direct incineration), or it has to remain on board of the means of transport and returned to the third country.

60 The rules also apply, as of the withdrawal date, to personal consignments of travellers from the **Channel Islands** and the **Isle of Man** (Regulation (EEC) No 706/73 of the Council of 12 March 1973 concerning the Community arrangements applicable to the Channel Islands and the Isle of Man for trade in agricultural products, OJ L 68, 15.3.1973, p. 1).

61 Annex IV to Regulation (EC) No 206/2009.

62 For more information, please consult https://ec.europa.eu/taxation_customs/individuals/cash-controls_en.

63 Article 3(1) of Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community, OJ L 309, 25.11.2005, p. 9.

5.5. Cultural goods[64]

Union law[65] submits the export of certain cultural goods (such as furniture more than 50 years old or books more than 100 years old and with a value of more than EUR 50.000, printed maps more than 200 years old and with a value of more than EUR 15.000[66]) to an export licence. This requirement also applies to individual travellers.

As of the withdrawal date, this obligation applies also vis-à-vis the United Kingdom.

Travellers concerned are advised to enquire whether goods carried in luggage are subject to export licence requirements.

5.6. Specimens of endangered species[67]

Union law[68] as a general rule provides that persons *travelling to the EU from third countries* may introduce specimens of endangered species (animals or plants)[69] into the EU only subject to the prior authorisation by the CITES authority of the Member State of destination. The persons *travelling from the EU to a third country* may (re-)export such specimens only based on the prior authorisation by the CITES authority of the Member State where the specimens are located. The documents required to this effect depend on the status of the species in question (i.e. how strictly it is protected, which varies between the different annexes to Regulation (EC) No 338/97) and on the nature and direction of the movement (import, export or re-export).

Union law provides, however, for exceptions from the authorisation requirement:

- "Personal and household effects": The import or (re-)export of 'personal and household effects' is *not subject to prior authorisation*.[70] [71] However, certain conditions regarding the mode and circumstances

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64 For more information, please consult https://ec.europa.eu/taxation_customs/business/customs-controls/cultural-goods_en.

65 Article 2(1) of Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods, OJ L 39, 10.2.2009, p. 1.

66 See Annex I to Regulation (EC) No 116/2009.

67 For more information, please consult http://ec.europa.eu/environment/cites/index_en.htm.

68 Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein, OJ L 61, 3.3.1997, p. 1.

69 The endangered species are listed in the annexes to Regulation (EC) No 338/97.

70 Article 7(3) of Regulation (EC) No 338/97.

71 Articles 57, 58 and 58a of Commission Regulation (EC) No. 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein, OJ L 166, 19.6.2006, p. 1.

of the cross-border movement must be fulfilled for dead specimens and parts or derivatives of animals or plants to be considered as 'personal and household effects'. Live animals or plants do not qualify as such. Hunting trophies are generally also covered by these less strict provisions, but hunting trophies from certain strictly protected species are subject to specific rules.[72]

- Pets: People travelling to and from the EU with their pets, where these belong to species listed in the annexes to Regulation (EC) No 338/97 (such as most parrots[73], and certain turtles and corals) can apply for a *personal ownership certificate*.[74] Such a certificate can be obtained for a legally acquired live animal held for personal, non-commercial purposes, if the person travelling wants to avoid having to apply for prior authorisation each time an international border is crossed. For travels to and from the EU, the certificate is issued by the CITES authority of the Member State from which the animal originates or, if it originates from a third country, by the CITES authority of the Member State into which it was first introduced.

As of the withdrawal date, the authorisation requirement applies to movements of such specimens between the United Kingdom and the EU.

A personal ownership certificate issued by the CITES authority of the United Kingdom can, as of the withdrawal date no longer be used for travelling to or from the EU with a live animal. Rather, only certificates issued as of the withdrawal date by the United Kingdom as party to the CITES convention[75] will be accepted as of the withdrawal date.

Travellers concerned are advised to contact the CITES authorities[76] of the Member State of destination (if it is an import) or where the specimen is located (if it is a (re-)export) in order to apply and obtain the necessary prior authorisations or certificates.

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[72] An overview of the provisions applicable to personal and household effects appears on pp. 78-79 of the *Reference Guide – European Wildlife Trade Regulations*, available at http://ec.europa.eu/environment/cites/legis_refguide_en.htm.

[73] Please note that this issue is separate from veterinary requirements (see above, section 5.1).

[74] Chapter VIII of Regulation (EC) No. 865/2006.

[75] https://cites.org/sites/default/files/document/E-Res-12-03-R17.pdf

[76] A list of the CITES authorities of the EU Member States is maintained and updated, in case of changes, by the European Commission and can be consulted at the following address: http://ec.europa.eu/environment/cites/pdf/list_authorities.pdf

5.7. Invasive alien species[77]

Union law[78] provides that persons travelling to the EU may introduce specimens of invasive alien species of Union concern[79] only subject to the prior authorisation by the competent authorities of the Member State of destination and, where relevant, of transit. The prohibition applies to live specimens as well as to any parts, gametes, seeds, eggs or propagules, hybrids, varieties or breeds of these species that might survive and subsequently reproduce.

The list of invasive alien species of Union concern is valid throughout the EU territory, excluding the outermost regions, which must establish lists adapted to their own circumstances. However, in addition to the EU list of invasive alien species of Union concern, each Member State may establish its own national list of invasive alien species subject to specific national rules.

As of the withdrawal date, the rules indicated above will become applicable to movements of such specimens from the United Kingdom to the EU.

Travellers concerned are advised to seek advice on such national lists from the competent authorities of the destination or transit Member States.

5.8. Firearms[80]

Union law[81] provides for a specific regime for the movement of firearms between Member States, including firearms accompanying travellers. These rules provide, inter alia, for the issuing of a 'European firearms pass'. This is issued on request by the competent authorities of a Member State to a person who is lawfully entering into possession of and using a firearm.[82]

Whenever persons want to travel from an EU Member States to another EU Member State, or through an EU Member State, they must obtain prior

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77 For more information, please consult http://ec.europa.eu/environment/nature/invasivealien/index_en.htm

78 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, OJ L 317, 4.11.2014, p. 35.

79 The invasive alien species of Union concern are listed in the annex to Commission Implementing Regulation (EU) 2016/1141 of 13 July 2016 adopting a list of invasive alien species of Union concern pursuant to Regulation (EU) No 1143/2014 of the European Parliament and of the Council, OJ L 189, 14.7.2016, p. 4. See also here: http://ec.europa.eu/environment/nature/invasivealien/list/index_en.htm.

80 For more information, please consult http://ec.europa.eu/growth/sectors/defence/defence-firearms-directives_en and https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms_en.

81 Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons, OJ L 256, 13.9.1991, p. 51.

82 The European Firearms Pass is valid for a maximum period of 5 years, which may be extended. It is a non-transferable document and records the firearms possessed and used by the holder of the pass.

authorisation from each of those Member States which will then be recorded in the European firearms pass that they must have in their possession throughout their journey. However, there are exceptions to this need for prior authorisation. This is the case for historical re-enactors and hunters, who may travel with specific categories of firearms as long as they are in possession of a European firearms pass listing their firearms and given that they are able to substantiate the reasons for their journey (such as an invitation for an event in Member State of destination).

As of the withdrawal date, these rules no longer apply to firearms moved from the United Kingdom to the EU and *vice-versa*. Rather, rules for bringing firearms into/out of the Union will apply.[83] These rules provide for the following:[84]

- Where firearms are brought temporarily into the EU from the United Kingdom, national rules for the declaration and authorisation of firearms will apply.[85]

- With respect to temporary exports from the EU to the United Kingdom of certain firearms by hunters or sport shooters as part of their accompanied personal effects (or for the re-export following temporary admission for hunting or sport shooting activities), no export authorisation will be required, provided that they substantiate to the competent authorities the reasons for the journey.[86] When leaving the EU to the United Kingdom through a Member State other than the Member State of their residence, hunters and sport shooters shall produce to the competent authorities a European Firearms Pass. In the case of travel by air, the European Firearms Pass shall be produced to the competent authorities where the relevant items are handed over to the airline for transport out of the customs territory of the Union. When leaving the EU to the United Kingdom through the Member State of their residence, hunters and sport shooters may, instead of a European Firearms Pass, choose to produce another document considered valid for this purpose by the competent authorities of that Member State.[87]

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[83] Regarding the relevant EU customs rules, see sections 3 and 4 of this notice.

[84] It is recalled that the United Kingdom is going to apply, as of the withdrawal date, national rules for imports and exports into/from the United Kingdom.

[85] This notice does not address the rules for the placing on the market of firearms imported into the EU, cf. Article 4 of Directive 91/477/EEC.

[86] Article 9(1)(a) of Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition, OJ L 94, 30.3.2012, p. 1.

[87] Article 9(1)(b) of Regulation (EU) No 258/2012.

Travellers concerned are advised to enquire with the responsible authorities of the United Kingdom or the relevant EU Member State what the precise conditions for the import, export or transit of firearms are.

6. USE OF AUTOMOTIVE VEHICLES

6.1. Driving licences[88]

According to Union law,[89] driving licences issued by Member States of the EU are mutually recognised.[90] As of the withdrawal date, this mutual recognition will no longer be compulsory as a matter of EU law. Instead, an international agreement, the Vienna Convention on Road Traffic,[91] will apply. The United Kingdom and all but four Member States (Ireland, Cyprus, Malta and Spain) are parties to this Convention which provides for the recognition of national driving licences and international driving permits issued by contracting states in accordance with this Convention.

The four EU Member States (Ireland, Cyprus, Malta and Spain) which are not parties to the Vienna Convention on Road Traffic are parties to a previous international agreement, to which the United Kingdom is also a party [92].This agreement provides for the recognition of driving licences, but parties to this agreement may also require the holders of driving licences to be in possession of an International Driving Permit.

Holders of UK driving licences who intend to drive in the EU are therefore advised to contact the responsible Member State authorities regarding the recognition rules for driving licences. Holders of European Union driving licences who intend to drive in the United Kingdom are advised to contact the responsible authority in the United Kingdom regarding the recognition rules for their driving licences.

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88 For more information, please consult https://ec.europa.eu/transport/road_safety/topics/driving-licence/eu-driving_licence_en.

89 Article 2 of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences, OJ L 403, 30.12.2006, p. 18.

90 The holder of a valid driving licence issued by an EU Member State may also exchange it for an equivalent driving licence by another Member State if the holder takes up normal residence in that Member State (Articles 11 and 12 of Directive 2006/126/EC). As of the withdrawal date, a driving licence issued by the United Kingdom can no longer be exchanged for a driving licence by an EU-27 Member State on the basis of EU law. A driving licence issued, prior to the withdrawal date, by an EU-27 Member State in exchange of a driving licence issued in the United Kingdom remains valid.

91 Article 41(2) of the Convention on Road Traffic, Vienna, 8 November 1968.

92 Convention on Road Traffic, Geneva, 19 September 1949.

6.2. Third party liability insurance[93]

Union law[94] prohibits the use on the territory of the EU Member States of uninsured vehicles, and ensures that insurance against civil liability arising from the use of vehicles covers the entire territory of the EU.[95] A vehicle normally based in a third country must be provided with a valid "green card" or with a certificate of frontier insurance.[96] Compliance with this requirement may be verified upon entry into the EU.

As of the withdrawal date, for vehicles used in the EU but registered in the United Kingdom, only the international Green Card system[97] applies. The Green Card system allows the use in a State of a vehicle insured in another State, provided that both States are members of the Green Card system. All EU-27 Member States and the United Kingdom participate in the Green Card system.

However, the following should be noted:

- The Green Card system does not oblige motor insurers in a Green Card member country to cover the territory of the Green Card member countries (an additional premium might be charged for the coverage).

  Travellers to the EU from the United Kingdom with a UK-registered vehicle are advised to ensure, prior to travelling that their motor insurance policy covers the EU. The same applies for travellers from the EU to the United Kingdom with an EU-registered vehicle.

- A vehicle normally based in a third country must have present a valid Green Card when entering the EU, unless the third country benefits from a Commission decision that exempts it from this requirement.[98]

  Travellers to the EU from the United Kingdom with a UK-registered vehicle are advised to ensure, prior to travelling, that a Green Card is present in the vehicle, unless they have certainty that the aforementioned Commission decision has been taken. Travellers from the EU to the United Kingdom with an EU-registered vehicle are

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93 For more information please consult https://ec.europa.eu/info/business-economy-euro/banking-and-finance/insurance-and-pensions/motor-insurance_en.

94 Article 7 of Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability, OJ L 263, 7.10.2009, p. 11.

95 Article 14 of Directive 2009/103/EC.

96 Article 8(1) of Directive 2009/103/EC.

97 http://www.cobx.org/content/default.asp?PageID=57.

98 Article 8(2) of Directive 2009/103/EC. Regarding non-EEA States, such Commission decisions have been taken for Andorra, Serbia and Switzerland.

advised to travel with the Green Card in the vehicle, or query the matter with the authorities in the United Kingdom.

7. MEDICAL TREATMENT AND RELATED ISSUES; EMERGENCIES

7.1. Entitlement of healthcare under Union law on social security coordination[99]

Union law[100] provides for access to healthcare during temporary stay abroad based on the European Health Insurance Card (EHIC) or, for planned treatments, based on the prior authorisation by the relevant competent institution (e.g. the institution with which the person concerned is insured).

Costs of such healthcare are reimbursed between the relevant institutions of the Member States involved.

As of the withdrawal date, these rules no longer apply vis-à-vis the United Kingdom.[101] This means the following:

- As of the withdrawal date, nationals of EU-27 Member States and their family members will not be able to access healthcare for unexpected care in the United Kingdom on the basis of EHIC. UK nationals will not be able to access healthcare in the EU-27 on the basis of EHIC as of the withdrawal date.

  Persons insured in an EU-27 Member State and intending to travel in the United Kingdom are advised to query with the institution with which they are insured whether it will reimburse healthcare accessed in a third country. The same applies to persons insured in the United Kingdom and intending to travel in the EU-27.

  Where reimbursement is not ensured, persons concerned should consider taking out private travel insurance.

- As of the withdrawal date, prior authorisations for planned treatments in the United Kingdom can no longer be issued by EU-27 Member States on the basis of Union law. No prior authorisations can be issued by the United Kingdom for planned treatments in the EU-27 on the basis of Union law.

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99 For more information, please consult http://ec.europa.eu/social/main.jsp?catId=559.

100 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, p. 1.

101 In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom to ensure reimbursement, recovery and offsetting in relation to events that occurred before the end of the transition period. For information on the ongoing negotiations, see https://ec.europa.eu/commission/brexit-negotiations_en.

7.2. Entitlement of re-imbursement for cross-border healthcare under Union law on cross-border healthcare[102]

Apart from the system of social security coordination referred to in section 7.1 of this notice, Union law[103] also provides for the possibility to obtain, under certain circumstances, reimbursement by the Member State of affiliation for a cross-border healthcare treatment in another Member State. As of the withdrawal date, patients affiliated in an EU-27 Member State will no longer benefit from the rules on reimbursement set out in that legislation as regards the cross-border treatment provided in the United Kingdom. Nor will patients affiliated in the United Kingdom any longer benefit from EU rules on reimbursement. It will be up to the EU-27 Member State of affiliation and the United Kingdom to decide on the reimbursement of such healthcare based on national law (in the same way as for healthcare received in other third countries).

Patients intending to obtain, as of the withdrawal date, reimbursement from an EU-27 Member State of affiliation for a treatment provided in the United Kingdom should query with their National Contact Points set up in accordance with Union law.[104] The same applies to patients intending to obtain, as of the withdrawal date, reimbursement from the United Kingdom.[105]

7.3. Recognition of medical prescriptions issued in another Member State[106]

Union law[107] obliges Member States to recognise cross-border medical prescriptions of medicinal products or medical devices issued in another Member State. A medical prescription issued in the United Kingdom, as of the withdrawal date, will no longer be recognised in an EU-27 Member State on the basis of Union law.

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[102] For more information, please consult https://ec.europa.eu/health/cross_border_care/overview_en.

[103] Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare (OJ L 88, 4.4.2011, p. 45).

[104] Article 6 of Directive 2011/24/EU.

[105] Please note that the Union law obliging the EU Member States to maintain National Contact Points to inform patients about cross-border healthcare will no longer apply to the United Kingdom as of the withdrawal date.

[106] For more information, please consult https://ec.europa.eu/health/sites/health/files/cross_border_care/docs/impl_directive_presciptions_2012_en.pdf.

[107] Article 11(1) of Directive 2011/24/EU, Commission Implementing Directive 2012/52/EU of 20 December 2012 laying down measures to facilitate the recognition of medical prescriptions issued in another Member State (OJ L 356, 22.12.2012, p. 68).

7.4. European emergency number – 112[108]

Union law[109] obliges Member States to ensure that all end-users of electronic communications services allowing calls from fixed and mobile telephones, including from payphones, are able to call the "European emergency number" 112 free of charge. In addition, users with disabilities must have access to emergency services that is equivalent to that enjoyed by other users.

As of the withdrawal date, these obligations no longer apply to the United Kingdom.

7.5. Parking cards for disabled[110]

EU law[111] recommends that EU Member States mutually recognise parking cards for people with disabilities, introduced in accordance with the standardised EU-model parking card.[112]

Under current practices, United Kingdom authorities[113] usually recognise EU-model parking cards issued by other EU Member States, allowing owners of an EU-model parking card to park in parking spaces reserved for disabled persons in the United Kingdom. The same holds usually for the recognition, in an EU-27 Member State of a United Kingdom national parking card (the so-called "Blue Badge").[114]

There is no certainty that authorities in the EU and in United Kingdom will maintain the usual practice of mutual recognition of each other's parking cards for people with disabilities. This will be a matter for the discretion of these authorities.

Persons with disabilities using a parking card for people with disabilities may therefore wish to contact the relevant authorities in advance.

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[108] For more information, please consult https://ec.europa.eu/digital-single-market/en/112.

[109] Article 26 of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), OJ L 108, 24.4.2002, p. 51.

[110] For more information, please consult https://europa.eu/youreurope/citizens/travel/transport-disability/parking-card-disabilities-people/index_en.htm.

[111] Council Recommendation 98/376/EC of 4 June 1998 on a parking card for people with disabilities, OJ L 167, 12.6.1998, p. 25.

[112] See Annex to Recommendation 98/376/EC. Issuance and management of EU-model parking cards as well as the applicable conditions remain the competence of national and local authorities.

[113] Enforcement of these national conditions is normally conducted by police and local authorities.

[114] The UK has opted for a national model, encompassing some of the key-features of the EU-model card.

7.6. Consular protection[115]

Union law[116] entitles EU citizens to consular protection by the diplomatic or consular authorities of any EU Member State, if they find themselves in a situation where they require assistance outside the EU with no embassy or consulate from their own Member State effectively in a position to help them (they are "unrepresented"). Unrepresented EU citizens are entitled to receive consular protection on the same conditions as the nationals of the EU Member State they turn to.

As of the withdrawal date, UK nationals will no longer be able to benefit from this right and EU-27 citizens will no longer be able to turn to UK embassies and consulates to seek consular protection on the basis of EU law.

7.7. Compensation mechanism for persons injured by a car in another Member State ("visiting victims")[117]

Union law provides for a compensation mechanism for injured persons in an accident occurring in another Member State and caused by the use of a vehicle based in that Member State ("visiting victims").[118] This mechanism provides for compensation of the victim by the "compensation body" of the Member State of residence of the victim if the insurer fails to communicate with the injured party within a given deadline.[119]

As of the withdrawal date, this mechanism no longer applies to persons residing in the United Kingdom and injured by a car while visiting an EU-27 Member State and *vice-versa*.

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[115] For more information, please consult https://ec.europa.eu/info/policies/justice-and-fundamental-rights/eu-citizenship/consular-protection_en.

[116] Articles 20(2)(c) and 23 of the Treaty on the Functioning of the European Union and Article 46 of the EU Charter of Fundamental Rights. The right to consular protection is further elaborated in Council Directive (EU) 2015/637 of 20 April 2015 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries, OJ L 106, 24.4.2015, p. 1.

[117] For more information, please consult https://ec.europa.eu/info/business-economy-euro/banking-and-finance/insurance-and-pensions/motor-insurance_en.

[118] Chapter 7 of Directive 2009/103/EC of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability, OJ L 263, 7.10.2009, p. 11.

[119] Subsequently, that compensation body can claim compensation from the compensation body of the Member State in which the insurance undertaking which issued the policy is established, Article 24(2) of Directive 2009/103/EC.

8. INSURANCE, PASSENGER RIGHTS

8.1. Insolvency travel insurance

Union law[120] provides obligations for traders who organise package travel or facilitate linked travel arrangements, among others to protect travellers against insolvency.

Organisers and traders must comply with these obligations even when they are established in third countries[121] as long as they sell or offer such services in an EU Member State or direct their activities to an EU Member State (by *inter alia* using a language or a currency other than the language or currency of the Member State of establishment).

In addition, when travellers buy packages from organisers established in a third country via retailers established in the EU, the organiser's obligation for the performance of the package and the securities for the refunds of the payments made and for the traveller's repatriation is ensured by the retailer, unless the retailer provides evidence that the organiser complies with these obligations.[122]

Hence, as of the withdrawal date, EU law obliging organisers to protect travellers against the insolvency of the organiser will cease to apply where the organiser established in the United Kingdom does not direct its selling activities to the EU, and the package travel is not bought through a retailer in the EU.

In these cases, travellers are advised to assess the need to protect themselves against a possible insolvency of the organiser.

8.2. EU passenger rights[123]

Union law provides for a set of rights for passengers, not only for air, but also for ship, bus and coach and rail passengers. These rights relate to information, reimbursement and re-routing, compensation, assistance and care, right of redress, and special rights for persons with disabilities and with reduced mobility.

As of the withdrawal date, EU passenger rights may no longer apply to travel between the EU and the United Kingdom, or may be limited.

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[120] Article 17 of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, OJ L 326, 11.12.2015, p. 1.

[121] See the second subparagraph of Article 17(1) of Directive (EU) 2015/2302 as well as Regulations (EC) No 593/2008 and (EU) 1215/2012, in conjunction with recital 50 of Directive (EU) 2015/2302.

[122] See Article 20 of Directive (EU) 2015/2302.

[123] For more information, please consult https://europa.eu/youreurope/citizens/travel/passenger-rights/index_en.htm.

8.2.1. Air passenger rights

As of the withdrawal date, EU air passenger rights[124] will no longer apply to a flight with a non-EU carrier from an airport located in the United Kingdom to an airport located in the EU. The air passenger rights granted by EU law will however continue to apply to:

(i) flights departing from the United Kingdom to an airport situated in the territory of an EU-27 Member State operated by a Community carrier; as well as

(ii) flights departing from the EU-27 to a United Kingdom airport operated by any carrier.

Travellers should thus be aware that, depending on the carrier chosen, certain EU passenger rights will no longer apply to inbound flights to the EU.

EU law granting specific rights for persons with disabilities and persons with reduced mobility[125] travelling by air will no longer apply to air services that, as of the withdrawal date,

(i) depart from an airport in the United Kingdom,

(ii) transit through an airport in the United Kingdom, or

(iii) arrive at an airport in the United Kingdom.

However, certain rights, such as assistance by air carriers, continue to apply to air passengers departing from a United Kingdom airport to an EU-27 airport if the operating carrier is a Community air carrier.

8.2.2. Ship passengers rights

EU ship passenger rights[126] continue to apply where

(i) the port of embarkation is in the EU-27; or

(ii) the port of embarkation is in the United Kingdom, if the port of disembarkation is in the EU-27 and the service is operated by a carrier established within the territory of a Member State or offering

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[124] Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, OJ L 46, 17.2.2004, p. 1.

[125] Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air OJ L 204, 26.7.2006, p. 1.

[126] Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway, OJ L 334, 17.12.2010, p. 1.

passenger transport services to or from a Member State ("Union carrier").

Travellers should be aware that, depending on the carrier chosen, EU passenger rights may no longer apply to journeys to the EU.

Regarding cruise passengers, the current set of EU passenger rights continues to apply if the port of embarkation is situated in a Member State.

8.2.3. Bus and coach passenger rights

EU bus and coach passenger rights[127] continue to apply to passengers travelling with regular services[128] where the boarding or the alighting point of the passengers is situated in the territory of a Member State and where the scheduled distance of the service is 250 km or more. For passengers where a scheduled distance of the service is less than 250 km, a reduced set of rules applies. Some Member States have exempted services from the application of the Regulation on passenger rights if a significant part of a regular service (including at least one scheduled stop) is operated outside the Union.[129]

The bus and coach passenger rights granted by EU law will therefore continue to apply – if no exemption applies - to

(i) passengers departing from the United Kingdom to a destination situated in the territory of an EU-27 Member State; as well as

(ii) passengers departing from the EU-27 to a United Kingdom destination.

8.2.4. Rail passengers rights

EU rail passenger rights[130] apply to all rail journeys and services which

(i) take place within the EU territory; and

(ii) are being performed by a railway undertaking licensed in accordance with the EU rules.

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[127] Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport, OJ L 55, 28.2.2011, p. 1.

[128] A more limited set of rights apply to occasional services.

[129] For more information, please consult https://ec.europa.eu/transport/sites/transport/files/themes/passengers/road/doc/exemptions-from-bus-coach-passengers-rights-and-obligations.pdf

[130] Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations OJ L 315, 3.12.2007, p. 14.

Therefore, as of the withdrawal date, EU rail passengers' rights will no longer apply on the UK sections of rail journeys between the United Kingdom and an EU Member State.

9. OTHER ISSUES

9.1. Card payments[131]

While the acceptance of debit or credit cards for payment transactions depends on the respective preferences of merchants, Union law[132] sets limits to interchange fees charged to merchants in respect of such transactions. These rules only apply where both the payer's payment service provider and the payee's payment service provider are located in the EU.[133]

As of the withdrawal date, transactions between the EU-27 and the United Kingdom will no longer be covered by the EU rules limiting interchange fees.

Provided that merchants are allowed to apply surcharges on consumers for card payments, this may lead to a higher surcharge for card payments.

9.2. Roaming[134]

Union law[135] on roaming services prohibits any surcharge on roaming customers by the roaming provider (i.e. the domestic provider of mobile communications services - voice, SMS or data services) operating in an EU Member State in addition to the domestic retail price when travelling in the EU.

As of the withdrawal date, this obligation in Union law on the roaming provider will no longer apply either to roaming providers operating in the United Kingdom whenever their customers are roaming in the EU, or to roaming providers operating in the EU whenever their customers are roaming in the United Kingdom. Nevertheless, roaming providers operating in a Member State will remain subject to the obligation in Union law to inform their customers about the roaming charges for the services provided applicable whenever they travel to the United Kingdom.[136]

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131 For more information, please consult https://europa.eu/youreurope/citizens/consumers/financial-products-and-services/payments-transfers-cheques/index_en.htm

132 Articles 3 and 4 of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions, OJ, L 123, 19.5.2015, p. 1.

133 Article 1(1) of Regulation (EU) 2015/751

134 For more information, please consult https://ec.europa.eu/digital-single-market/en/roaming

135 Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union, OJ L 172, 30.6.2012, p. 10.

136 Articles 14 and 15 of Regulation (EU) No 531/2012.

9.3. Portability of online content services[137]

Union law on portability of online content services[138] allows EU consumers who buy or subscribe in their Member State of residence to online content services - to watch films or sporting events, listen to music, download e-books or play games - to continue accessing these services without additional costs when they travel or stay temporarily in other EU Member States (cross-border portability).

As of the withdrawal date, this obligation in Union law will no longer apply to providers of paid online content services in the EU-27 when their customers travel in the United Kingdom.

Also, as of the withdrawal date, this obligation in Union law will no longer apply to providers of paid online content services in the United Kingdom when their customers travel in the EU.

This means that customers of paid online content services in the EU-27 and in the United Kingdom may not be able to access the online content services they have subscribed to in the EU and in the United Kingdom respectively when travelling in the United Kingdom or the EU respectively, or may have a limited access to the service (e.g. access to a different catalogue).

[137] For more information, please consult https://ec.europa.eu/digital-single-market/en/cross-border-portability-online-content-services

[138] Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market, OJ L 168, 30.6.2017, p. 1.

ANNEX: EU-LEAFLET ON PERSONAL CONSIGNMENTS OF PRODUCTS OF ANIMAL ORIGIN THAT FORM PART OF TRAVELLERS' LUGGAGE

Keep infectious animal diseases out of the EU!

Animal products may carry pathogens
causing infectious disease

Due to the risk of introducing diseases into the European Union (EU), there are strict procedures for the introduction of certain animal products into the EU. These procedures do not apply to the movements of animal products between the 27 Member States of the EU, or for animal products coming from Andorra, Liechtenstein, Norway, San Marino, and Switzerland.

All animal products not conforming to these rules must be surrendered on arrival **in the EU for official disposal.** Failure to declare such items may result in a fine or criminal prosecution.

1. Small quantities of meat and milk and their products (other than powdered infant milk, infant food, and special foods or special pet feed required for medical reasons)

   You may only bring in or send to the EU personal consignments of meat and milk and their products (other than powdered infant milk, infant food, and special foods or special pet feed required for medical reasons) provided that they come from , the Faeroe Islands, Greenland, or Iceland, and their weight does not exceed **10 kg** per person.

2. Powdered infant milk, infant food, and special foods required for medical reasons

   You may only bring in or send to the EU personal consignments of powdered infant milk, infant food, and special foods required for medical reasons provided that:

   — they come from the Faeroe Islands, Greenland, or Iceland, and their combined quantity does not exceed the weight limit of **10 kg** per person, and that:

   - the product does not require refrigeration before consumption,
   - it is a packaged proprietary brand product, and
   - the packaging is unbroken unless in current use

   — they come from other countries (other than the Faeroe Islands, Greenland, or Iceland), and their combined quantity does not exceed the weight limit of **2 kg** per person, and that:

   - the product does not require refrigeration before consumption,
   - it is a packaged proprietary brand product, and
   - the packaging is unbroken unless in current use.

3. Pet feed required for medical reasons

   You may only bring in or send to the EU personal consignments of pet feed required for medical reasons provided that:

   — they come from the Faeroe Islands, Greenland, or Iceland, and their combined quantity does not exceed the weight limit of 10 kg per person, and that:

   - the product does not require refrigeration before consumption,
   - it is a packaged proprietary brand product, and
   - the packaging is unbroken unless in current use

   — they come from other countries (other than the Faeroe Islands, Greenland, or Iceland), and their combined quantity does not exceed the weight limit of 2 kg per person, and that:

   - the product does not require refrigeration before consumption,
   - it is a packaged proprietary brand product, and

— the packaging is unbroken unless in current use

4. Small quantities of fishery products for personal human consumption

You may only bring in or send to the EU personal consignments of fishery products (including fresh, dried, cooked, cured or smoked fish, and certain shellfish, such as prawns, lobsters, dead mussels and dead oysters) provided that:

— fresh fish are eviscerated,

— the weight of the fishery products does not exceed, per person, 20 kg or the weight of one fish, whichever weight is the highest.

These restrictions do not apply to fishery products coming from the Faeroe Islands or Iceland.

5. Small quantities of other animal products for personal human consumption

You may only bring in or send to the EU other animal products, such as honey, live oysters, live mussels and snails for example, provided that:

— they come from the Faeroe Islands, Greenland, or Iceland, and that their combined weight does not exceed 10 kg per person,

— they come from other countries (other than the Faeroe Islands, Greenland, or Iceland) and their combined weight does not exceed 2 kg per person.

Please note that you may bring in small quantities of animal products from several of the above five categories (paragraphs 1-5) provided that they comply with the rules explained in each of the relevant paragraphs.

6. Larger quantities of animal products

You may only bring in or send to the EU larger quantities of animal products if they meet the requirements for commercial consignments, which include:

— certification requirements, as laid down in the appropriate official EC veterinary certificate,

— the presentation of the goods, with the correct documentation, to an authorised EU border inspection post for veterinary control, on arrival in the EU.

7. Exempted animal products

The following products are exempted from the rules explained previously:

— bread, cakes, biscuits, chocolate and confectionery (including sweets) not mixed or filled with meat product,

— food supplements packaged for the final consumer,

— meat extracts and meat concentrates,

— olives stuffed with fish,

— pasta and noodles not mixed or filled with meat product,

— soup stocks and flavourings packaged for the final consumer,

— any other food product not containing any fresh or processed meat or dairy and with less than 50 % of processed egg or fishery products.

8. Animal products from protected species

For certain protected species there may be additional restrictions in place. For example for caviar of sturgeon species, the weight limit is a maximum of 125 g per person.

Industrial Security

EUROPEAN COMMISSION
DIRECTORATE-GENERAL HUMAN RESOURCES AND SECURITY

Brussels, 5 July 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF INDUSTRIAL SECURITY

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, candidates or tenderers, contractors or subcontractors (in the case of classified contracts) and applicants and beneficiaries (in the case of classified grant agreements) are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Please note that this notice does not address:

a) access to procurement by natural and legal persons established in a third country, as set out in Article 119 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union;[4] and

b) restrictions on access to procurement as provided for in EU legislation to protect the essential interests of the security of the EU or public security.

1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 OJ L 298, 26.10.2012, p. 1.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement,[5] as of the withdrawal date, the United Kingdom's status with regard to the rules on industrial security[6] for procurement procedures, classified contracts and classified grant procedures/classified grant agreements with the Commission and other institutions and bodies applying Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information changes. This has in particular the following consequences:[7] [8]

1. FACILITY SECURITY CLEARANCE (FSC)

According to Article 44(3) of Commission Decision (EU, Euratom) 2015/444, where EU classified information has to be provided in the course of the procurement or grant award procedure, a facility security clearance is required.

According to Article 44(4) of Commission Decision (EU, Euratom) 2015/444, the contracting or granting authority shall not award a classified contract or grant agreement before having received confirmation about issuance of a facility security clearance by the National Security Authority (NSA), the Designated Security Authority (DSA) or any other competent security authority of the Member State in which the contractor, subcontractor, or beneficiary is registered.

As of the withdrawal date, facility security clearances issued by the United Kingdom NSA, DSA or other competent security authority are no longer valid for the purposes of Commission Decision (EU, Euratom) 2015/444.

This could, under the terms of the classified contract/grant agreement that was signed, constitute a ground for termination, unless the contractor/beneficiary has taken appropriate remedial measures, such as the assignment of the contract to an economic operator or, in the case of a consortium being granted the contract, the rearrangement of action tasks within that consortium to a participant which holds, as from the withdrawal date, a facility security clearance

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5 The arrangements contained in the draft withdrawal agreement, which includes a transition period, agreed at negotiator's level between the EU and the UK and published on 19 March 2018, provide, in Article 122(7)(b) for specific rules on the access to certain security related sensitive information during the transition period (https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf). The text of the withdrawal agreement, however, still needs to be fully agreed and ratified.

6 "Industrial security" is defined as "the application of measures to ensure the protection of EU classified information within the framework of classified contracts [or] within the framework of classified grant agreements", Article 39(1) of Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information, OJ L 72, 17.3.2015, p. 53.

7 Similar rules have been adopted by other institutions and bodies, cf. in particular Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1) and Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 19 September 2017 on the security rules for the European External Action Service (OJ C 126, 10.04.2018, p. 1).

8 This notice does not address industrial security aspects in national procurement. For these aspects, see the *"Notice to Stakeholders - Withdrawal of the United Kingdom and EU rules in the field of public procurement"* (https://ec.europa.eu/info/brexit/brexit-preparedness_en?page=1).

- issued by an EU-27 Member State; or

- issued by a third country with which a security of information agreement covering industrial security aspects has been concluded, which provides for the recognition of a facility security clearance for companies registered on its territory.

Where an award procedure is ongoing on the withdrawal date, tenderers or applicants that cannot comply with their security obligations will be rejected.

2. PERSONNEL SECURITY CLEARANCE (PSC)

Article 43 of Commission Decision (EU, Euratom) 2015/444 provides that classified contracts or classified grant agreements shall include provisions indicating that staff of a contractor, subcontractor or beneficiary who, for the performance of the classified contract, subcontract or grant agreement, require access to EU classified information, shall be security cleared at the relevant level by the NSA, DSA or any other competent authority of the Member State in which the contractor, subcontractor, or beneficiary is registered.

According to Article 44(3) of Commission Decision (EU, Euratom) 2015/444, where EU classified information has to be provided in the course of the procurement or grant procedure, a personnel security clearance is required.

As of the withdrawal date, the personnel security clearances issued by the United Kingdom NSA, DSA or other competent security authority are no longer valid for the purposes of Commission Decision (EU, Euratom) 2015/444.

This could, under the terms of the classified contract/grant agreement that was signed, constitute a ground for termination, unless the contractor/ beneficiary has taken appropriate remedial measures, such as ensuring that the staff concerned holds, as from the withdrawal date, a personnel security clearance

- issued by an EU-27 Member State; or

- issued by a third country with which a security of information agreement covering industrial security aspects has been concluded, which provides for the recognition of a personnel security clearance.

Where an award procedure is ongoing on the withdrawal date, tenderers or applicants that cannot comply with their security obligations will be rejected.

3. SUBCONTRACTS

It is recalled that, according to Article 46(2) and (3) of Commission Decision (EU, Euratom) 2015/444, the contractor or beneficiary shall obtain permission from the contracting authority, before sub-contracting any parts of a classified contract or grant agreement, and shall not provide EU classified information to a sub-contractor without the prior written consent of the contracting authority. No subcontract involving access to EU classified information may be awarded to subcontractors registered in a third country, unless there is a particular regulatory framework for the

security of information.

Non-compliance with this obligation could, under the terms of the classified contract/grant agreement that was signed, constitute a ground for termination, unless the contractor/beneficiary has taken appropriate remedial measures (such as ensuring that the subcontract is changed to a subcontractor with security clearance issued by an EU-27 Member State or third country with a security agreement).

Where an award procedure is ongoing on the withdrawal date, tenderers or applicants with subcontracts that do not comply with the security requirements will be rejected.

European Commission
Directorate-General Human Resources and Security

Justice and Consumers

EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Brussels, 18 January 2019
REV1 – replaces the Notice to stakeholders dated 21 November 2017

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF CIVIL JUSTICE AND PRIVATE INTERNATIONAL LAW

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties are reminded of legal repercussions which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[3] as of the withdrawal date, the EU rules in the field of civil justice and private international law no longer apply to the United Kingdom. This has in particular the following consequences:[4]

[1] In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[2] A third country is a country not member of the EU.

[3] Cf. Part four of the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, as agreed at negotiator's level on 14 November 2018 (https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132_en)

[4] It is recalled that the United Kingdom does not participate in the full *acquis* of judicial cooperation in civil and commercial matters.

1. INTERNATIONAL JURISDICTION

EU private international law establishes harmonised rules for international jurisdiction in areas of civil and commercial matters, incl. insolvency, and family law.[5] Broadly speaking these harmonised rules apply only where a defendant is domiciled or resident in an EU Member State.

1.1. Proceedings pending on the withdrawal date

For proceedings involving a defendant domiciled in the United Kingdom, and pending with a court of the EU-27 Member States[6] on the withdrawal date, the EU rules for international jurisdiction continue to apply.

1.2. Proceedings initiated as of the withdrawal date

For proceedings involving a United Kingdom domiciled defendant initiated on or after the withdrawal date in the EU-27 Member States, the rules on international jurisdiction in EU instruments in the area of civil and commercial law as well as family law no longer apply, unless the EU instruments set the rules of jurisdiction with regard to third countries.[7]

International jurisdiction will thus be governed by the national rules of the Member State in which a court has been seized.

In some instances, international conventions, such as the conventions developed by the Hague Conference on Private International Law apply[8], provided that both the EU/EU Member States and the United Kingdom are parties to the convention.

2. RECOGNITION AND ENFORCEMENT

EU private international law sets rules for the facilitated recognition and enforcement of judicial decisions issued by a Member State.

2.1. *Exequatured* judgements

Where the relevant instrument foresees *exequatur*, if a judgment of a UK court has been *exequatured* in the EU-27 before the withdrawal date but not yet enforced before that date, the judgment can still be enforced in the EU-27,

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5 This notice does not address specifically consumer protection issues. See, for these aspects, the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules on consumer protection and passenger rights*", published on 27 February 2018.

6 While the EU Treaties provide for specific arrangements for the (non)participation of Ireland and Denmark in this part of the EU *acquis,* for the sake of simplicity, the notion "EU-27" is used.

7 This is, for example, the case with regard to litigation involving consumers (see footnote 5).

8 Usually, these conventions are transposed into national law of each State that is party to the Convention.

and the fact that it was originally a judgment handed down by UK courts is irrelevant.

2.2. Proceedings pending on the withdrawal date

Unless a judgment of a UK court has been exequatured before the withdrawal date, the EU rules on recognition and enforcement of such judgments of UK will not apply to a judgment of a UK court that has not been enforced before the withdrawal date, even where

- the judgment was handed down before the withdrawal date; or
- the enforcement proceedings were commenced before the withdrawal date.

2.3. Proceedings initiated on or after the withdrawal date

For proceedings to enforce a judgment of a UK court that are commenced as of the withdrawal date in the EU-27, EU rules no longer apply.

Recognition and enforcement will be governed by the national rules of the Member State in which recognition/enforcement is sought.

In some instances, international conventions, such as the conventions developed by the Hague Conference on Private International Law apply[9], provided that both, the EU/EU Member States and the United Kingdom are parties to the convention.

All stakeholders are advised to take this into consideration when assessing contractual choices of international jurisdiction

3. SPECIFIC EU PROCEDURES

EU law on judicial cooperation in civil matters provides for several specific procedures, such as the European Payment Order Procedure[10] or the European Procedure for Small Claims.[11]

The approach to jurisdiction and recognition and enforcement in sections 1 and 2 of this notice also applies for these specific judicial procedures.

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[9] Usually, these conventions are transposed into national law of each State that is party to the Convention.

[10] Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure, OJ L 399, 30.12.2006, p. 1.

[11] Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, OJ L 199, 31.7.2007, p. 1.

4. JUDICIAL COOPERATION PROCEDURES BETWEEN MEMBER STATES

EU law on judicial cooperation in civil matters provides for facilitated judicial cooperation (e.g. in relation to the service of documents[12], taking of evidence[13] or within the context of the European Judicial Network in Civil and Commercial Matters[14]). As of the withdrawal date, EU-27 Member States

- do not proceed further such pending judicial cooperation procedures involving the United Kingdom; and
- do not launch new such judicial cooperation procedures involving the United Kingdom

on the basis of EU law.

Such procedures may continue to be processed according to national law on judicial cooperation with third countries. In some instances, international conventions, such as the conventions developed by the Hague Conference on Private International Law apply[15], provided that both, the EU/EU Member States and the United Kingdom are parties to the convention.[16]

All national Central Authorities are advised to assess whether judicial cooperation procedures risk being pending on the withdrawal date and whether the procedure can continue under national law or a relevant international convention. Where this continuation under national law or a relevant international convention is possible, the Central Authority should consider submitting an additional request under the relevant national law/international convention which would be conditional upon the United Kingdom withdrawing from the Union without withdrawal agreement.

[12] Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), OJ L 324, 10.12.2007, p. 79.

[13] Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters OJ L 174, 27.6.2001, p. 1.

[14] See Article 8 of Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters OJ L 174, 27.6.2001, p. 25.

[15] Usually, these conventions are transposed into national law of each State that is party to the Convention.

[16] For example, concerning international child abductions, the application from the requesting Central Authority can be examined by the requested Central Authority under the 1980 Hague Convention on the Civil Aspects of International Child Abduction instead.

5. OTHER ISSUES

- Regulation (EU) 2016/1191[17] abolishes for certain public documents (for example, a birth certificate) the apostille requirement and simplifies other formalities thereby facilitating the circulation of certain public documents. The application of Regulation (EU) 2016/1191 does not depend on the date of issue of the public document but on the date when it is presented to the authorities of another Member State. Hence, Regulation (EU) 2016/1191 will no longer apply to a public document issued by the UK authorities which is presented to the authorities of a Member State of the EU-27 as from the withdrawal date, regardless of the date of issuance and the period of validity of the public document issued by the UK authorities.

- The Commission provides a series of information tools on national judicial system through the e-Justice portal.[18] As of the withdrawal date, the e-Justice Portal will no longer provide information related to the United Kingdom, including the dynamic forms and the UK factsheets.

The European e-Justice Portal https://beta.e-justice.europa.eu/?action=home&plang=en and the website of the Commission on civil justice http://ec.europa.eu/justice/civil/index_en.htm provide for information concerning the field of civil justice. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Justice and Consumers

[17] Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union, OJ L 200, 26.7.2016, p. 1.

[18] https://e-justice.europa.eu/home.do?action=home&plang=en

EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Brussels, 21 November 2017

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON COMPANY LAW

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national administrations but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders are reminded of legal repercussions which need to be considered when the United Kingdom becomes a third country

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of company law no longer apply to the United Kingdom. This has in particular the following consequences in the different areas of EU company law:

- **UK incorporated companies** will be third country companies and therefore not automatically be recognised under Article 54 of the Treaty on the Functioning of the European Union by the Member States (in accordance with the case-law of the Court of Justice). Member States will not be obliged to recognise the legal personality and limited liability of companies, which are incorporated in the United Kingdom, but have the central administration or the principal place of business in the EU-27. UK incorporated companies may be recognised in accordance with each Member State's national law (private international law rules concerning companies and the subsequently applicable substantive company law), or international law treaties. As a consequence, depending on the applicable national or international law rules, such companies might not have a legal

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

standing in the EU and shareholders might be personally liable for the debts of the company.

- **Branches in EU-27 Member States of United Kingdom incorporated companies** will be branches of third country companies and rules relevant to branches of third country companies will apply.

- EU law on **disclosure, incorporation, capital maintenance and alteration, and cross-border mergers** will no longer apply to the United Kingdom. Consequently, stakeholders, including employees, creditors and investors dealing with UK companies will have to rely solely on the national rules of the United Kingdom for adequate safeguards. EU rules on compulsory disclosure of certain company information in the business registers (such as documents and particulars related to instruments of constitution, appointment, termination of office and particulars of persons representing a company, the winding-up of a company or a change of the registered office) will no longer apply.

- EU law on access, including cross-border, to company information available in the EU business registers, no longer applies to the United Kingdom. This means that the **United Kingdom business register** will no longer be connected to the business registers interconnection system (BRIS); information about United Kingdom companies will no longer be available through the e-justice portal. Also, EU business registers will no longer be notified about certain changes in relation to UK companies (changes to UK companies with a branch in EU-27; cross-border mergers involving at least one EU company and one UK company).

- The company law form of a European Company (SE) will no longer be available in the United Kingdom.

The website of the Commission on company law https://ec.europa.eu/info/business-economy-euro/doing-business-eu/company-law-and-corporate-governance_en provides general information concerning the field of EU company law. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Justice and Consumers

EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Brussels, 9 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM FROM THE UNION AND EU RULES IN THE FIELD OF DATA PROTECTION

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all stakeholders processing personal data are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[4]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules for transfer of personal data to third countries apply. Aside from an "adequacy decision", which allows the free flow of personal data from the EU without the EU data exporter having to implement any additional safeguards or being subject to further conditions, the EU's data protection rules (both under the current Directive 95/46 and under the new General Data Protection Regulation 2016/679, "GDPR" - which will apply as from 25 May 2018) allow a transfer if the controller or processor has provided "appropriate safeguards". These safeguards may be provided for by:

1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 For the continued application of EU safeguards of personal data processed while the United Kingdom was a Member State, the Commission has published an essential principles paper here: https://ec.europa.eu/commission/publications/position-paper-use-data-and-protection-information-obtained-or-processed-withdrawal-date_en.

- **Standard data protection clauses:** the Commission has adopted three sets of model clauses which are available on the Commission's website;[5]
- **Binding corporate rules:** legally binding data protection rules approved by the competent data protection authority which apply within a corporate group;
- Approved **Codes of Conduct** together with binding and enforceable commitments of the controller or processor in the third country;
- Approved **certification mechanisms** together with binding and enforceable commitments of the controller or processor in the third country.

In the absence of an "adequacy decision" or of "appropriate safeguards" a transfer or a set of transfers may take place on the basis of so-called **"derogations"**: they allow transfers in specific cases, such as based on consent, for the performance of a contract, for the exercise of legal claims or for important reasons of public interest.

These tools are well-known to business operators in the Member States, as they are already being used today for the transfers of personal data to non-EU countries.

The GDPR has simplified the use of these tools by cutting red tape compared to the current Directive 95/46. Transfers based on approved standard data protection clauses or on binding corporate rules will not be subject to a further, specific authorisation from a supervisory authority. In addition, the GDPR has, subject to further conditions, introduced codes of conduct and certification mechanisms as new tools for the transfer of personal data.

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties. As regards the implementation of the GDPR, and in particular the new tools for transfers to third countries (e.g. approved Codes of Conduct and approved certification mechanisms entailing binding commitments by the controllers and processors receiving the data in the third country), the Commission (DG JUST) is working with interested parties and data protection authorities to make the best use of these new instruments. Moreover, the Commission has set up a stakeholder group comprised of industry, civil society and academics, in which this topic will be discussed.

European Commission
Directorate-General Justice and Consumers

[5] https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/model-contracts-transfer-personal-data-third-countries_en

Maritime Affairs and Fisheries

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

Brussels, 9 April 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON FISHERIES AND AQUACULTURE

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, operators carrying out fishing activities and any of the activities related to any stage of production, processing, marketing, distribution and retail chains of fishery and aquaculture products are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the Common fisheries policy rules no longer apply to the United Kingdom. This has in particular the following consequences:[4]

1. CONTROL AND ENFORCEMENT

In accordance with international law of the sea, fishing vessels wishing to engage in fishing activities in waters under the sovereignty or jurisdiction of a third country are

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] This notice does not address aspects related to maritime transport, including safety of fishing vessels (see, for these aspects, the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of maritime transport*"), seafarer qualifications (see, for these aspects, the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules on the minimum level of training of seafarers and the mutual recognition of seafarers' certificates*"), and marine equipment (see, for these aspects, the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of industrial products*") (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

required to obtain a fishing authorisation from that third country. In addition, fishing vessels performing fishing activities in third country waters are subject to applicable laws and regulations of the concerned coastal state and hence may undergo control and enforcement activities carried out by the authorities of the coastal state concerned. The flag State is responsible for diligently monitoring, including through authorisation schemes, the activities of vessels flying its flag when operating in third country waters, to ensure that such activities do not undermine the sustainability of the stocks in the coastal state's waters and are consistent with applicable conservation rules of the coastal state.

Against this background, **access by Union vessels to third country waters** under direct authorisations, granted by the third country authorities, fall under the authorisation procedure foreseen by Regulation (EU) 2017/2403 on the sustainable management of external fishing fleets.[5] In this framework, provided that all criteria and conditions foreseen in Articles 4 to 7 of Regulation (EU) 2017/2403 are complied with, EU Member States may authorise their vessels to fish under such direct authorisations in accordance with the procedure set out in Articles 16 to 18 of Regulation (EU) 2017/2403. This procedure requires the prior notification of the Commission and gives the Commission the possibility to object to the granting of the fishing authorisation in accordance with Article 18 of Regulation (EU) 2017/2403 if the conditions set out therein are not complied with.

As of the withdrawal date, these rules will apply to Union fishing vessels wishing to engage in fishing activities in waters of the United Kingdom.

Access by third country vessels to Union waters is subject to the authorisation procedure foreseen in Title III of Regulation (EU) 2017/2403. In this regard, third country vessels may only engage in fishing activities in Union waters if in possession of an authorisation issued by the European Commission in accordance with Articles 32 to 34 of Regulation (EU) 2017/2403 and provided they comply with the other requirements in that Title, notably Article 38 of Council Regulation (EU) 2017/2403, which sets the rules on control and enforcement measures for fishing activities within Union waters of fishing vessels flying the flag of a third country.

As of the withdrawal date, these rules will apply to United Kingdom fishing vessels wishing to engage in fishing activities in Union waters.[6]

2. LANDINGS AND FIRST SALE OF FISHERY PRODUCTS

Access to ports of third countries, including port services and first-stage marketing installations, and the landing of catches in such ports by vessels flying the flag of an EU Member State are subject to the rules in the third country. As of the withdrawal date, Union vessels wishing to land in the United Kingdom will be subject to the rules applicable in the United Kingdom.

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5 Council Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, OJ L 347, 28.12.2017, p. 81.

6 Pursuant to Article 2 of Regulation No 1005/2008, 'fishing vessel' means any vessel of any size used or intended for use for the purposes of commercial exploitation of fishery resources, including support ships, fish processing vessels, vessels engaged in transhipment and carrier vessels equipped for the transportation of fishery products, except container vessels.

Access to ports of EU Member States, including port services and the use of first-stage marketing installations, as well as the conduct of landing and transhipment operations in such ports shall be prohibited for vessels flying the flag of a third country unless they meet the requirements laid down in Section I of Chapter II of Regulation (EC) No 1005/2008. As of the withdrawal date, these rules will apply to United Kingdom vessels wishing to land in the Union.

The above is without prejudice to rules of international law of the sea applicable in cases of *force majeure* and distress.

3. IMPORT AND EXPORT OF FISHERY AND AQUACULTURE PRODUCTS

3.1. Flag State notification and catch certification

According to Article 20(1) of Regulation (EC) No 1005/2008, in order to export fishery products caught by third country flagged fishing vessels[7] to the EU, the Commission has to have received a notification from the flag State. As of the withdrawal date, this applies to the United Kingdom.

Fishery products[8] may only be imported to the EU when accompanied by a catch certificate (Article 12(2) of Regulation (EC) No 1005/2008). The catch certificate to be validated by the United Kingdom must certify that the catches concerned have been made in accordance with applicable laws, regulations and international conservation and management measures. The catch certificate must have been validated by the United Kingdom competent authority and, when required, accompanied by other documents envisaged by the certification scheme in the event of an indirect import after transhipment, transit or processing of the products in another third country (Articles 14 and 19 of Regulation (EC) No 1005/2008).

Export of catches made by Union fishing vessels to the United Kingdom will also be subject to the catch certification scheme if the United Kingdom certifies to the European Commission by way of notification that it has in place relevant implementation, control and enforcement arrangements and public authorities empowered to verify certificates (Articles 15 and 20 of Regulation (EC) No 1005/2008).

3.2. Consumer information, labelling, and marketing requirements

Fishery and aquaculture products placed on the EU market are subject to specific market requirements set out in Regulation (EU) No 1379/2013[9], which include the specific consumer information requirements (Chapter IV of Regulation (EU) No 1379/2013) and marketing standards on fishery and aquaculture products (Chapter III of Regulation (EU)

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7 Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, OJ L 286, 29.10.2008, p. 13

8 Pursuant to Article 2 of Regulation 1005/2008, 'fishery products' mean any products which fall under Chapter 03 and Tariff headings 1604 and 1605 of the Combined Nomenclature established by Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, with the exception of the products listed in Annex I of this Regulation.

9 Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, OJ L 354, 28.12.2013, p. 1.

No 1379/2013). The rules include also the prohibition to sell fish below the minimum conservation reference size for direct human consumption.

Apart from these sector-specific requirements on the import and export of fishery and aquaculture products, the horizontal requirements in EU food law apply.[10]

These rules, be they sector-specific or horizontal, apply to all food placed on the EU market, independently of the place of production of the food.

As regards organic aquaculture, for products placed on the EU-27 market as of the withdrawal date, the certificates issued by control authorities and bodies in the United Kingdom are no longer valid.[11]

4. PROFESSIONAL ORGANISATIONS

Fishery and aquaculture producer organisations established pursuant to Article 6 of Regulation (EU) No 1379/2013 and inter-branch organisations established pursuant to Article 11 of the same Regulation may only function within the Union and fulfil the tasks stipulated by Union law if recognised by Member States in accordance with Section II of Chapter II of that Regulation. As of the withdrawal date, producer organisations and inter-branch organisations recognised in the United Kingdom on the basis of Regulation (EU) No 1379/2013 will no longer be considered professional organisations under EU law.

European Commission
Directorate-General for Maritime Affairs and Fisheries

[10] See "*Notice to stakeholders – Withdrawal of the United Kingdom and EU rules on food law*" (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

[11] For details, see "*Notice to stakeholders – Withdrawal of the United Kingdom and EU rules on food law*" (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

Mobility and Transport

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Brussels, 19 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF AIR TRANSPORT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all operators are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of air transport no longer apply to the United Kingdom. This has, in particular, the following consequences in the different areas of air transport:

1. OPERATING LICENCES

- **Air carriers holding EU operating licences:**

  In order to obtain and keep an EU operating licence and benefit from the intra-EU air traffic rights, air carriers must comply at all times with the conditions under Article 4 of Regulation (EC) No 1008/2008 on air services[4]. The conditions include, among others, the need to have one's principal place of business[5] within

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, OJ L 293, 31.10.2008, p. 3.

[5] 'Principal place of business' means the head office or registered office of a Community air carrier in the EU Member State within which the principal financial functions and operational control, including continued airworthiness management, of the Community air carrier are exercised (Article 2(26) of Regulation (EC) No 1008/2008).

an EU Member State, and to be majority owned and effectively controlled by EU Member States and/or nationals of EU Member States. If the conditions are no longer fulfilled as a consequence of the United Kingdom becoming a third country, the operating licence at issue will no longer be valid.

- **Air carriers holding an operating licence delivered by the UK authorities:**

  As of the withdrawal date, the operating licences granted to airlines by the United Kingdom Civil Aviation Authority will no longer be valid EU operating licences.

2. INTERNATIONAL ASPECTS

As of the withdrawal date, the United Kingdom will automatically cease to be covered by air transport agreements of the Union, whether these have been entered into by the Union alone (e.g. the Air Transport Agreement with Switzerland[6]) or by the Union and its Member States acting jointly (e.g. the Air Transport Agreement with the USA[7]). This has, in particular, consequences as regards access to designation/traffic rights and other areas covered by the said agreements.

- **Air carriers of the United Kingdom:**
  Air carriers of the United Kingdom will no longer enjoy traffic rights under any air transport agreement to which the Union is a party, be it to or from the territory of the United Kingdom, be it to or from the territory of any of the EU Member States.

  Air carriers of the United Kingdom will no longer have access to designation/traffic rights so far available under the bilateral air transport agreements between EU Member States and a third country on account of the principle of EU designation accepted by the third country concerned.

- **Air carriers of any of the EU Member States:**
  Air carriers of the EU Member States will no longer enjoy traffic rights to or from the territory of the United Kingdom granted to Union carriers by a third country under any air transport agreement to which the Union is a party.

  Rights under the said agreements as regards, inter alia, cooperative market arrangements including leasing, intermodal service or operational flexibility may be affected if, and to the extent to which, they are exercised in the territory of the United Kingdom or in connection with carriers of the United Kingdom.

  Air carriers of the EU Member States may no longer have access to designation/traffic rights so far available under the bilateral air transport agreements between the United Kingdom and a third country on account of the principle of EU designation accepted by the third country concerned.

- **Air carriers of countries which are not Member States of the EU:**

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[6] Agreement between the European Community and the Swiss Confederation on Air Transport, OJ L 114, 30.4.2002, p. 73.

[7] Air Transport Agreement between the European Community and its Member States, on the one hand, and the United States of America, on the other hand, OJ L 134, 25.5.2007, p. 4.

Air carriers of countries which are not Member States of the EU will no longer benefit from access to traffic rights to or from the territory of the United Kingdom, or any other rights where these have been granted to their country under any air transport agreement to which the Union is a party.

3. AVIATION CERTIFICATES AND LICENCES

Further information on aviation certificates and licences, as well as other aviation safety related questions, including aviation safety agreements, will be made available on EASA's website at the following link: https://www.easa.europa.eu/.

Preparing for the withdrawal is not just a matter for Union and national authorities, but also for private parties.

The website of the Commission on air transport (https://ec.europa.eu/transport/modes/air_en) provides general information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Mobility and Transport

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Brussels, 23 October 2018
Replaces the notice published on 5 July 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF AVIATION SECURITY AND MARITIME SECURITY

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, EU airport operators, operators providing services at EU airports and entities providing goods and/or services to or through EU airports (aviation security), as well as operators of maritime transport services (maritime security) are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of aviation security and maritime security no longer apply to the United Kingdom. This has in particular the following consequences:[4]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Stakeholders are reminded that Commission services have published notices on other aspects related to the withdrawal of the United Kingdom and the consequences for air transport and maritime transport, including transport safety, access, and passenger rights. All notices are available here: https://ec.europa.eu/info/brexit/brexit-preparedness_en.

1. AVIATION SECURITY

Regulation (EC) No 300/2008[5] lays down common rules and basic standards on aviation security and procedures to monitor the implementation of the common rules and standards.

Commission Implementing Regulation (EU) No 2015/1998[6] lays down detailed measures for the implementation of the common basic security standards as set out in Article 4 and the Annex to Regulation (EU) No 300/2008.

As of the withdrawal date, the EU aviation security rules and standards with regard to passengers, baggage, and freight arriving from a third country, particularly on transfer onto a connecting flight, will apply to passengers, baggage and freight arriving from the United Kingdom. This implies in particular the following as of the withdrawal date:

- Aircraft search: In accordance with Chapter 3.1.1.3 of the Annex to Commission Implementing Regulation (EU) 2015/1998, an aircraft arriving into a critical part from the United Kingdom will be subjected to an aircraft security search any time after passenger disembarkation from the area to be searched and/or the unloading of the hold.

  This would no longer apply should the United Kingdom at one point be listed in attachment 3-B of the Annex to Commission Implementing Regulation (EU) 2015/1998.

- Hold baggage: In accordance with Chapter 5 of the Annex to Commission Implementing Regulation (EU) 2015/1998, hold baggage of an inbound flight from the United Kingdom will be subject to security screening procedure when transferring onto a connecting flight. This means that before the hold baggage is loaded into an aircraft for the next flight, it has to undergo rescreening to the EU standard.

  This would no longer apply should the United Kingdom at one point be listed in attachment 5-A of the Annex to Commission Implementing Regulation (EU) 2015/1998.

- Passengers and their cabin baggage: In accordance with Chapter 4 of the Annex to Commission Implementing Regulation (EU) 2015/1998, passengers of a flight originating from the United Kingdom will have to undergo another set of security screening procedure when transferring onto a connecting flight.

  This would no longer apply should the United Kingdom at one point be listed in attachment 4-B of the Annex to Commission Implementing Regulation (EU) 2015/1998.

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[5] Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security, OJ L 97 9.4.2008, p. 72.

[6] Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security, OJ L 299, 14.11.2015, p. 1.

- Cargo and mail – Approval of Regulated Agents and Known Consignors in the EU: In accordance with Chapters 6.3 and 6.4 of the Annex to Commission Implementing Regulation (EU) No 2015/1998, EU-based entities approved as Regulated Agents or Known Consignors by an EU Member State shall be recognised in all EU Member States.

  The recognition in all Member States of approvals by the appropriate authority of the United Kingdom will lapse as of the withdrawal date. Regulated Agents and Known Consignors approved by the appropriate authority of the United Kingdom will no longer be part of the EU secure supply chain.

- Cargo and mail and airport and in-flight supplies – EU Aviation Security Validators' approvals: In accordance with Chapter 11.6 of the Annex to Commission Implementing Regulation (EU) No 2015/1998 (point 11.6.4.2), natural and legal persons approved as EU aviation security validators by an EU Member State shall be recognised in all EU Member States.

  The recognition in all Member States of EU aviation security validators approvals by the appropriate authority of the United Kingdom will lapse as of the withdrawal date. Holders of such approvals will no longer be empowered to carry out EU aviation security validations in accordance with Regulation (EU) No 2015/1998.

- Cargo and mail - Designation of air carriers: In accordance with Chapter 6.8.1 of the Annex to Commission Implementing Regulation (EU) 2015/1998, air carriers - no matter if established in the EU, in the United Kingdom, or in another third country - that transport air cargo and mail from an airport located in the United Kingdom into the EU will have to be designated by the appropriate authority of an EU-27 Member State as "Air Cargo or Mail Carrier operating into the European Union from a Third Country Airport" (ACC3) and ensure implementation of certain security measures. The ACC3 designation is based on a process called EU aviation security validation, consisting of an assessment of the operator's security programme and an on-site verification of the security operations at the location (departure airport or warehouse).

  This would no longer apply should the United Kingdom at one point be listed in attachments 6-Fi or 6-Fii of the Annex to Commission Implementing Regulation (EU) 2015/1998.

- Cargo and mail - Designation of the entities and operators part of the supply chain of the ACC3 air carrier: In accordance with Chapters 6.8.4 and 6.8.5 of the Annex to Commission Implementing Regulation (EU) 2015/1998, entities and operators part of the supply chain of the ACC3 air carrier mentioned above will have to be designated as "Third Country Known Consignors" (KC3) or "Third Country Regulated Agent" (RA3) by the appropriate authority of an EU-27 Member State. The RA3/KC3 designations are based on a process called EU aviation security validation, consisting of an assessment of the operator's security programme and an on-site verification of the security operations at the location (departure airport or warehouse).

This would no longer apply should the United Kingdom at one point be listed in attachment 6-Fi or 6-Fii of the Annex to Commission Implementing Regulation (EU) 2015/1998.

- Cargo and mail - Recognition of ACC3/KC3/RA3 designations: According to Chapters 6.3.1.6, 6.4.1.6, 6.8.1.5, and 6.8.4.7 of the Annex to Commission Implementing Regulation (EU) 2015/1998, ACC3/KC3/RA3 designations by the appropriate authority of an EU Member State shall be recognised in all EU Member States.

  The recognition in all Member States of designations by the appropriate authority of the United Kingdom will lapse as of the withdrawal date. As a result, all carriers and cargo operators in third countries that have been designated by the authority of the United Kingdom will be required to hold, as of the withdrawal date, the ACC3/KC3/RA3 status accorded by the appropriate authority of an EU-27 Member State.

- Regulated suppliers: In accordance with Chapter 8.1.3 of the Annex to Commission Implementing Regulation (EU) 2015/1998, regulated suppliers (some airport suppliers as well as in-flight suppliers) have to be approved by the appropriate authority. According to Chapter 8.1.3.5 of Commission Implementing Regulation (EU) 2015/1998, the approval of a regulated supplier by an EU Member State shall be recognised in all EU Member States.

  The recognition in all Member States of approvals by the appropriate authority of the United Kingdom will lapse as of the withdrawal date. As a result, regulated suppliers approved by the appropriate authority of the United Kingdom will be required to hold, as of the withdrawal date, the approval of an appropriate authority of an EU-27 Member State.

2. MARITIME SECURITY

Regulation (EC) No 725/2004 on enhancing ship and port facility security[7] and Directive 2005/65/EC on enhancing port security[8] set out the EU rules on maritime security.

- Article 6 of Regulation (EC) No 725/2004 requires the competent authority for maritime security of the Member State to request ships announcing their intention to enter a port to provide certain security information. According to Article 7(1),(2) of Regulation (EC) No 725/2004, Member States can request each other, for international scheduled services operated between them, to exempt these services from providing this mandatory security information. As of the withdrawal date, this possibility, as provided by Regulation (EC) No 725/2004, no longer exists for the United Kingdom. This means that, as of the withdrawal date, all scheduled services falling within the scope of Article 6 of

[7] Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security, OJ L 129, 29.4.2004, p. 6.

[8] Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security, OJ L 310, 25.11.2005, p. 28.

Regulation (EC) No 725/2004, such as ferry links between the United Kingdom and EU Member States, will be subjected to the mandatory provision of security information set out therein.

- According to Article 16(2) of Directive 2005/65/EC, the personnel carrying out security inspections or handling confidential information (including the personnel of recognised security organisations, see Article 11 of Directive 2005/65/EC) requires a security vetting of the Member State of which the person concerned is a national. This means that United Kingdom personnel (thus holding a security clearance from the United Kingdom) can no longer carry out the security inspections referred to in this Directive. The same applies for inspections under Regulation (EC) No 725/2004 (for International Ship and Port Facility Security (ISPS) compliance), pursuant to Article 12 thereof.

The websites of the Commission on aviation security (https://ec.europa.eu/transport/modes/air/security_en), and maritime security (https://ec.europa.eu/transport/modes/maritime/security_en) provide for general information concerning the rules for transport security in the Union. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Mobility and Transport

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Brussels, 18 January 2019
REV1 – replaces the Notice to stakeholders dated 13 April 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU AVIATION SAFETY RULES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[3] as of the withdrawal date, the EU rules in the field of civil aviation safety will no longer apply to the United Kingdom. This has, in particular, the following consequences in the different areas of civil aviation safety:

[1] In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[2] A third country is a country not member of the EU.

[3] Cf. Part four of the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, as agreed at negotiator's level on 14 November 2018 (https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132_en).

1. CERTIFICATES[4] ISSUED BY THE EUROPEAN AVIATION SAFETY AGENCY TO HOLDERS LOCATED IN THE UNITED KINGDOM

In accordance with Article 77 of the Basic Regulation[5], the European Aviation Safety Agency (EASA) carries out the functions and tasks of the State of Design on behalf of Member States with regard to the type certificates for products[6], certificates for parts and appliances, and certificates for design organisations. Such certificates issued by EASA to persons and organisations located in the United Kingdom will therefore no longer be valid in the EU as of the withdrawal date. The products, parts and appliances concerned will no longer be considered as certified in accordance with Section I of Chapter III of the Basic Regulation.[7]

2. CERTIFICATES ISSUED BY THE COMPETENT AUTHORITIES OF THE UNITED KINGDOM

Certificates issued before the withdrawal date **by the competent authorities of the United Kingdom** by virtue of the Basic Regulation and any relevant implementing or delegated acts will no longer be valid as of the withdrawal date in the EU. This concerns in particular:

- Certificates of airworthiness, restricted certificates of airworthiness, permits to fly, approvals of organisations responsible for the maintenance of products, parts and appliances, approvals for organisations responsible for the manufacture of products, parts and appliances, approvals for maintenance training organisations, and certificates for personnel responsible for the release of a product, part or appliance after maintenance, issued pursuant to Section I of Chapter III of the Basic Regulation;

- Pilot licences, pilot medical certificates, certificates for pilot training organisations, certificates for aero-medical centres, certificates for flight simulation training devices, certificates for persons responsible for providing

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[4] According to Article 3(12) of the Basic Regulation, "certificate" means any certificate, approval, licence, authorisation, attestation or other document issued as a result of certification attesting compliance with the applicable requirements.

[5] Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, OJ L 212, 22.8.2018, p. 1.

That Regulation repealed and replaced Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1). References in this Notice to the Basic Regulation must be understood as including the latter Regulation, insofar as it concerns periods prior to 11 September 2018.

[6] According to Article 3(3) of the Basic Regulation, "product" means an aircraft, engine or propeller.

[7] Stakeholders are informed that the Commission has proposed, on 19 December 2018, a time-limited extension of the validity of certain certificates, in order to allow for obtaining a certificate from the Civil Aviation Authority of the United Kingdom, insofar as the latter will have become the "State of design" as of the withdrawal date (see, for more information, https://ec.europa.eu/info/brexit/brexit-preparedness/legislative-initiatives-and-other-legal-acts_en).

flight training, flight simulation training or assessing pilots' skill, and certificates for aero medical examiners, issued pursuant to Section II of Chapter III of the Basic Regulation;

– Certificates for aircraft operators and attestations for the cabin crew, issued pursuant to Articles 30 and 22 of the Basic Regulation;

– Certificates for aerodromes, certificates for ATM/ANS providers, licences and medical certificates for air traffic controllers, certificates for air traffic controller training organisations, certificates for aero medical centres and aero medical examiners responsible for air traffic controllers, certificates for persons responsible for providing practical training or assessing the skills of air traffic controllers, issued pursuant to Sections IV to VI of Chapter III of the Basic Regulation.

Stakeholders are reminded that EASA has started to process applications for certain Third Country approvals from existing UK approval holders. This concerns the following certificates and approvals:[8]

– **Production Organisation Approval - POA (EASA Form 55)**

– **Letters of agreement for production without a POA (EASA Form 65)**

– **Maintenance Organisation Approvals - MOA (EASA Form 3 & Form 3MF)**

– **Maintenance Training Organisation Approvals - MTOA (EASA Form 11)**

– **Continuing Airworthiness Management Organisation - CAMO approvals (EASA Form 14)**

– **Flight Simulator Training Devices - FSTD (EASA Form 145)**

– **Approved Training Organisations - ATO (EASA Form 143)**

– **Aero-Medical Centres - AeMC certificates (EASA Form 146)**

In addition, stakeholders are informed that EASA is starting to process applications by UK aircraft operators for an authorisation as third country aircraft operators.[9]

3. CERTIFICATES ISSUED BY THE LEGAL AND NATURAL PERSONS CERTIFIED BY THE COMPETENT AUTHORITIES OF THE UNITED KINGDOM

Certificates confirming compliance with the provisions of the Basic Regulation and any relevant implementing or delegated acts issued before the withdrawal date by the legal and natural persons **certified by the competent authorities of the United Kingdom** on the basis of the Basic Regulation and those acts will no longer be valid

[8] https://www.easa.europa.eu/brexit

[9] https://www.easa.europa.eu/brexit

as of the withdrawal date, unless such a certificate concerns a part or appliance[10] which was installed prior to the withdrawal date and in compliance with the applicable EU airworthiness requirements, in an aircraft covered by a valid certificate of airworthiness issued prior to the withdrawal date by an EU-27 national authority on the basis of Article 14 of the Basic Regulation.[11]

4. AIRCRAFT OPERATORS FROM THE UNITED KINGDOM

As of the withdrawal date, aircraft operators from the United Kingdom will be considered as 'third country aircraft operators' within the meaning of Article 2(1)(c) of the Basic Regulation and other EU legislation on aviation safety. This means that a safety authorisation from the EASA will be required in accordance with Articles 60 and 82(1) of the Basic Regulation.

Stakeholders are informed that EASA is starting to process applications for third country aircraft operators.[12]

5. AIRCRAFT REGISTERED IN THE UNITED KINGDOM

As of the withdrawal date, aircraft registered in the United Kingdom will be considered as 'third country' registered aircraft within the meaning of Article 2(1) of the Basic Regulation and other EU legislation on aviation safety.

This means that EU aircraft operators using such aircraft will need to comply with the provisions of the Basic Regulation and any relevant implementing and delegated acts, as well as relevant provisions stemming from Regulation (EC) No 1008/2008 on air services[13] concerning the use of 'third country' registered aircraft. In particular, EU-27 air carriers intending to wet lease aircraft registered in the United Kingdom will be bound by the corresponding provisions relating to such aircraft. As regards safety, they will thus have to demonstrate that safety standards equivalent to those imposed by Union or national law are met.

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In case persons, including aviation personnel[14], as well as organisations located in the United Kingdom, holding certificates referred to in points 1, 2 or 3 above which cease to

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[10] This does not concern products as defined in Article 3(3) of the Basic Regulation (see above, footnote 6).

[11] Stakeholders are informed that the Commission has proposed, on 19 December 2018, a measure allowing for the continued use for products, parts and appliances certified, before the withdrawal date, by the legal and natural persons certified by the Civil Aviation Authority of the United Kingdom (see, for more information, https://ec.europa.eu/info/brexit/brexit-preparedness/legislative-initiatives-and-other-legal-acts_en).

[12] https://www.easa.europa.eu/brexit

[13] Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community, OJ L 293, 31.10.2008, p. 3.

[14] E.g. pilots, cabin crew, instructors, assessors, examiners.

be valid as of the withdrawal date, would like to continue their activities in the EU as of that date, they would need to ensure, as of that date, compliance with certification requirements according to the EU legislation on aviation safety.

In respect of products, parts and appliances certified before the withdrawal date and put in use in the EU before the withdrawal date and/or relevant organisations or persons requiring certification, the Commission is considering whether any steps are needed to facilitate continued compliance with EU law, including through additional guidance.

The websites of the Commission on air transport, including aviation safety (https://ec.europa.eu/transport/modes/air_en) and of EASA (https://www.easa.europa.eu/) provide general information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Mobility and Transport

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Brussels, 7 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF INLAND WATERWAYS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all inland waterway transport operators are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of inland waterway transport no longer apply to the United Kingdom. This has in particular the following consequences:[4]

- According to Article 2 of Council Regulation (EC) No 1356/96,[5] operators carrying out **international transport of goods or passengers by inland**

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] This notice does not address the issue of technical requirements for inland waterway vessels, under Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels (OJ L 389, 30.12.2006, p. 1). Regarding these rules, the United Kingdom has authorised a derogation in accordance with Article 7(1) of that Directive. A similar possibility for derogation is contained in Article 24(1) of Directive 2016/1629 (OJ L 252, 16.9.2016, p. 118), repealing Directive 2006/87/EC with effect from 7 October 2018.

[5] Council Regulation (EC) No 1356/96 of 8 July 1996 on common rules applicable to the transport of goods or passengers by inland waterway between Member States with a view to establishing freedom to provide such transport services, OJ L 175, 13.7.1996, p. 7.

waterway in the Union must be established in an EU Member State. Vessels used for such transport operations must also be registered in an EU Member State. As of the withdrawal date, operators that have their establishment in the United Kingdom and/or vessels registered in the United Kingdom will no longer fulfil these requirements and will therefore no longer have access to the internal inland waterway transport market of the Union.

- According to Article 1 of Council Regulation (EEC) No 3921/91,[6] carriers of goods or passengers by inland waterway established in an EU Member State are entitled to carry out **cabotage** activities in another Member State. For these activities, owners of vessels must be EU Member States nationals and domiciled in an EU Member State. Owners who are legal persons must have their registered place of business in an EU Member State and be majority owned by EU Member State nationals. As of the withdrawal date, carriers established in the United Kingdom and vessels' owners who are United Kingdom nationals or legal persons that have their registered place of business in the United Kingdom will no longer fulfil these requirements and will therefore no longer be entitled to carry out cabotage activities within the Union.

- According to Article 1(4) of Council Directive 96/50,[7] **boatmasters' certificates** issued by EU Member States in conformity with that Directive shall be valid for all waterways of the respective group in the Union. As of the withdrawal date, boatmasters' certificates issued by the UK in conformity with Directive 96/50 will no longer be valid for any waterway within the Union.

The website of the Commission on inland waterway transport (https://ec.europa.eu/transport/modes/inland_en) provides general information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Mobility and Transport

[6] Council Regulation (EEC) No 3921/91 of 16 December 1991 laying down the conditions under which non-resident carriers may transport goods or passengers by inland waterway within a Member State, OJ L 373, 31.12.1991, p. 1.

[7] Council Directive 96/50/EC of 23 July 1996 on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community, OJ L 235, 17.9.1996, p. 31.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Brussels, 27 February 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF MARITIME TRANSPORT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all operators are reminded of certain legal repercussions stemming from currently applicable rules of Union law in the field of maritime transport when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of maritime transport no longer apply to the United Kingdom. This has in particular the following consequences in the different areas of Union law in the field of maritime transport:[4]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 This notice does not address marine equipment (which is addressed in the *Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of industrial products*, https://ec.europa.eu/growth/single-market/goods_en) nor seafarer qualifications (which is addressed in the *Notice to stakeholders - Withdrawal of the United Kingdom and EU rules on the minimum level of training of seafarers and the mutual recognition of seafarers' certificates*, https://ec.europa.eu/transport/transport-modes/news/2017-12-11-brexit-notice-stakeholders_en).

1. MARKET ACCESS

- **Intra-Union shipping services and third-country traffic**: Regulation (EEC) No 4055/86[5] stipulates the freedom to provide maritime transport services between Member States, as well as between Member States and third countries, in respect of:

  - "nationals of Member States who are established in a Member State other than that of the person for whom the services are intended";[6] and

  - "nationals of the Member States established outside the EU", or "shipping companies established outside the EU and controlled by nationals of a Member State, if their vessels are registered in that Member State in accordance with its legislation."[7]

  Persons or companies who, as of the withdrawal date, do not meet those criteria will no longer benefit from this Regulation, notably in terms of non-discriminatory treatment as regards international maritime transport connections.

- **Cabotage**: According to Article 1(1) of Regulation (EEC) No 3577/92[8], the provision of maritime transport services within EU Member States (maritime cabotage) is restricted to **Community shipowners** (as defined in Article 2(2) of that Regulation). As of the withdrawal date it will no longer be possible to provide maritime transport services in accordance with this Regulation if the conditions for constituting a Community shipowner are no longer fulfilled, unless national legislation[9] allows access to cabotage to vessels flying the flag of a third country.

2. MARITIME SAFETY

- **Recognition of organisations**: The withdrawal of the United Kingdom does not as such affect the recognitions by the Commission in accordance with Article 4 of Regulation (EC) No 391/2009[10] of organisations referred to in Article 2(c) of that Regulation. However, according to Article 8 of Regulation (EC) No 391/2009 Recognised Organisations are to be assessed on a regular basis (at least every two years) by the Commission, together with the Member State that initially

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5 Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries, OJ L 378, 31.12.1986, p.1.

6 Article 1(1) of Regulation (EEC) No 4055/86.

7 Article 1(2) of Regulation (EEC) No 4055/86.

8 Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage), OJ L 364, 12.12.1992, p.7.

9 E.g. the legislation of Denmark, Ireland, Belgium, and the Netherlands.

10 Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations, OJ L 131, 28.5.2009, p.11.

submitted the request for recognition for the organisation in question. This also applies to the organisations which had initially been recognised by the relevant Member State and which now enjoy recognition pursuant to Article 15 of Regulation (EC) No 391/2009. As of the withdrawal date, the United Kingdom will no longer be in a position to participate in the assessments carried out in accordance with Article 8 of Regulation (EC) No 391/2009 of organisations initially recognised by it. With respect to this procedural requirement, the Commission is considering the necessary and appropriate steps to allow for the assessment in accordance with the terms of the Regulation.

- **Port State Control**: Directive 2009/16/EC[11] sets out the EU Port State Control system. The Directive requires Member States to inspect foreign ships in ports by Port State Control officers for the purpose of verifying that the condition of a ship and its equipment comply with the requirements of international conventions, and that the vessel is manned and operated in compliance with applicable international law. Directive 2009/16/EC also requires verification of compliance with a number of other EU-law based requirements,[12] including insurance certificates under Directive 2009/20/EC.[13] While EU-27 Member States will continue to verify United Kingdom ships calling to EU ports, as of the withdrawal date, the Port State Control inspection system set out in Directive 2009/16/EC no longer applies in the United Kingdom.[14] Relations between the United Kingdom and the EU in respect of Port State Control will be governed by the Paris Memorandum of Understanding on Port State Control.[15]

- **Operations of passenger ships**: According to Articles 4, 5 and 6 of Council Directive 1999/35/EC,[16] host States, as defined in that Directive, are to carry out mandatory inspections to provide for assurance of safe operation of regular ro-ro ferry and high-speed passenger craft services to or from ports of the EU. While these ships will continue to be subject to such inspections in the EU-27 Member States to or from which they operate, as of the withdrawal date, the United

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11 Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control, OJ L 131, 28.5.2009, p. 57.

12 Article 13 and Annex IV of Directive 2009/16/EC.

13 Point 41 of Annex IV to Directive 2009/16/EC and Article 4(1) of Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims, OJ L 131/128, 28.05.2009.

14 Note that, as of the withdrawal date, United Kingdom flagged ships will no longer be required to carry the inventory of hazardous materials that complies with Article 5(2) of Regulation 1257/2013 on ship recycling. However, this obligation becomes applicable again to ships flying the flag of a third country as of 31 December 2020(Articles 12 and 32(2)(b) of Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling, OJ L 330, 10.12.2013, p. 1). The certificate will be verified in accordance with Point 49 of Annex IV to Directive 2009/16/EC.

15 All EU Member States with sea ports, including the United Kingdom, are members of the Paris Memorandum of Understanding.

16 Council Directive 1999/35 of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services, OJ L 138, 1.6.1999, p. 1. Note that this Directive is being repealed and replaced by Directive (EU) 2017/2110 that entered into force on 20 December 2017 and will have as deadline for transposition 21 December 2019 (after the withdrawal date).

Kingdom will no longer have to carry out such inspections in accordance with Directive 1999/35/EC.

- **Safety of fishing vessels**: According to Article 3(5) of Directive 97/70/EC,[17] Member States shall prohibit fishing vessels flying the flag of a third country from operating in their internal waters or territorial sea or landing their catch in their ports unless they are certified by their flag State administration to comply with the requirements referred to in Article 3(1)-(4) and Article 5 of Directive 97/70/EC, namely the technical provisions of that Directive.

  In addition, under Article 7(3) of Directive 97/70/EC fishing vessels flying the flag of a third State shall be subject to control by a Member State when in its ports, in order to verify their compliance with the Torremolinos Protocol,[18] once it has entered into force.

The Commission services stand ready to provide further clarifications to interested stakeholders. The website of the Commission on maritime transport (https://ec.europa.eu/transport/modes/maritime_en) provide for general information. These pages will be updated with further information, where necessary. Further information on other maritime safety related questions is available on European Maritime Safety Agency's website at the following link: https://www.emsa.europa.eu/.

European Commission
Directorate-General for Mobility and Transport

[17] Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over, OJ L 34, 9.2.1998, p. 1.

[18] A number of provisions of the Torremolinos Protocol were updated and amended by the Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Brussels, 10 July 2018
Annuls and replaces the notice of
27 February 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF RAIL TRANSPORT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of rail transport no longer apply to the United Kingdom. This has in particular the following consequences in the different areas of rail transport:

1. MANAGEMENT AND USE OF RAILWAY INFRASTRUCTURE

According to Chapter III of Directive 2012/34/EU establishing a single European railway area,[4] in order to provide rail transport services, railway undertakings need a licence: they are entitled to apply for it in the EU Member State where they are established. The licence is valid throughout the territory of the Union, as long as the undertaking fulfils the obligations laid down in Chapter III of Directive

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, OJ L 343 14.12.2012, p. 32.

2012/34/EU. As of the withdrawal date, licences issued by the United Kingdom will no longer be valid in the EU-27. Railway undertakings holding such a licence and wishing to continue operating in the EU-27 as of the withdrawal date will have to apply for a new licence in an EU-27 Member State in accordance with Chapter III of Directive 2012/34/EU.

Railway undertakings providing cross-border services between the United Kingdom and the EU-27 and wishing to continue after the withdrawal date, will have to comply with the legal requirements applicable both in the EU-27 and the United Kingdom. These undertakings will therefore have to ensure that they have a licence valid in the EU-27 for the sections of the cross-border services located in the territory of the EU-27. It follows from Article 17(1) of Directive 2012/34/EU that establishment in one of the EU-27 Member States is a precondition for acquiring an EU-27 licence.

2. RAILWAY SAFETY

According to Article 10 of Directive 2004/49/EC on safety on the Community's railways,[5] access to railway infrastructure in the Union by a railway undertaking is subject to having obtained a safety certificate issued by a Member State. As of the withdrawal date, safety certificates delivered in the United Kingdom pursuant to Article 10 of the Directive will no longer be valid in the EU-27. Railway undertakings holding such a certificate and wanting to continue operating in the EU-27 as of the withdrawal date will have to apply for a new certificate in an EU-27 Member State[6] in accordance with Article 10 of Directive 2004/49/EC.

According to Article 14a(4) of Directive 2004/49/EC, each entity in charge of maintenance (ECM) of freight wagons is subject to a certification requirement. As of the withdrawal date, certificates issued by the United Kingdom will no longer be valid in the EU-27.[7] ECMs holding a certificate delivered by the United Kingdom and wishing to continue their professional activities in the European Union will have to apply for a certificate in an EU-27 Member State.

In addition, as of the withdrawal date, ECMs may apply for a certificate according to the legal framework of the Convention concerning international carriage by rail (COTIF), to which the 26 EU Member States with a railway system[8] are parties.[9]

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5 Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways (Railway Safety Directive), OJ L 164, 30.4.2004, p. 44.

6 More specifically, they will need a safety certificate part A issued by a EU-27 Member State in order to operate in the EU and safety certificates part B from each of the Member States in which they would operate.

7 This also holds for certificates by ECM certification bodies recognised by the United Kingdom or accredited by the United Kingdom accreditation body in accordance with Article 10 of Regulation (EU) No 445/2011 on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) No 653/2007 (OJ L 122, 11.5.2011, p. 22).

8 Malta and Cyprus do not have a railway system.

3. RAILWAY INTEROPERABILITY[10]

- Placing on the market of railway products covered by Directive 2008/57/EC: For those products, the European Union's Technical Specifications for Interoperability set out the applicable conformity assessment procedures and whether, for each of them, a third party intervention (Notified Body or Designated Body) is required or not. In terms of the placing on the market of such products, this notice should be read in conjunction with the generic notice to economic operators subject to Union legislation in the field of industrial products,[11] particularly its section 2 on conformity assessment procedures and Notified Bodies. The consequences of the withdrawal of the United Kingdom from the EU set out in the generic notice fully apply to certificates issued by bodies notified (in the case of Notified Bodies) or designated (in the case of Designated Bodies) by the United Kingdom (hereafter "Notified Bodies/Designated Bodies in the United Kingdom"). The following paragraphs deal with the specific cases concerning the placing on the market and use of interoperability constituents and the placing in service of vehicles and subsystems.

- Placing on the market and use of interoperability constituents: According to Articles 10 and 13(2) of Directive 2008/57/EC on the interoperability of the rail system within the Community,[12] the placing on the market of an interoperability constituent may require an assessment of conformity/suitability for use established by a Notified Body. Where an assessment established by a Notified Body is required, the consequences of the withdrawal of the United Kingdom from the EU set out in the generic notice on industrial products referred to in the preceding paragraph fully apply.

  An interoperability constituent placed on the market before the withdrawal date with a certificate of conformity/suitability for use issued by a Notified Body in the United Kingdom can be used, during the duration of validity of the certificates of conformity/suitability for use, in subsystems or vehicles the placing in service of which has been authorised before the withdrawal date.

- Placing in service of vehicles and subsystems: According to Article 21 of Directive 2008/57/EC, before being used on a network, a railway vehicle has to be authorised to be placed in service by the national safety authority which is

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9 See Article 15(2) of Appendix G to COTIF, and the Uniform Rules set out in accordance with that Article, in relation to the ECM certification in the COTIF framework. For the interaction between the ECM certifications pursuant to Directive 2004/49/EC and to the COTIF framework, see Article 3a(5) of the same Appendix.

10 The principles set out in this section will also apply in the framework of Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast) (OJ L 138, 26.5.2016, p. 44) when the relevant provisions become applicable in the respective EU Member States.

11 https://ec.europa.eu/growth/single-market/goods_en.

12 Directive 2008/57/EU of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community, OJ L 191, 18.7.2008, p. 1.

competent for this network in accordance with that Directive. Authorisations for placing in service of vehicles pursuant to Article 21 of Directive 2008/57/EC delivered in the EU-27 before the withdrawal date will retain their validity after the withdrawal date even if they have been authorised based on certificates of verification issued by Notified Bodies/Designated Bodies in the United Kingdom. The same applies to authorisations for placing in service of subsystems according to Articles 15 and 20 of Directive 2008/57/EC. As of the withdrawal date, however, authorisations for placing in service pursuant to Articles 15, 20 and 21 of Directive 2008/57/EC shall be based on certificates of verification issued by Notified Bodies/Designated Bodies in the EU-27.

As of the withdrawal date, the use of railway material authorised in the United Kingdom in international traffic in the EU will be governed by COTIF, and in particular the Appendices G[13] and F[14] thereto.

4. TRAIN DRIVER CERTIFICATION

- Directive 2007/59/EC[15] lays down the conditions and procedures for the certification of train drivers operating locomotives and trains on the railway system in the Union. In particular, it requires that the train driver obtains a specific licence and a specific certificate. The licence is issued by a competent authority of a Member State while the certificate is issued by the railway undertakings and infrastructure managers. According to Article 7, a licence issued by a Member State is valid throughout the territory of the Union while the certificate is valid on those infrastructures and rolling stock identified on it. As of the withdrawal date, licenses and certificates for train drivers issued in the United Kingdom will no longer be valid in the EU-27.

- Train drivers with a licence/certificate issued in the United Kingdom and working in another Member State should take the necessary steps in order to obtain certification documents valid in the EU-27 as of the withdrawal date. Therefore, railway undertakings or infrastructure managers in the EU employing train drivers with certification documents issued in the United Kingdom are invited to inform these persons of the need to obtain new certification documents valid in the EU-27 as of the withdrawal date.

- Railway undertakings providing cross-border services between the United Kingdom and the EU-27 and wishing to continue after the withdrawal date, will have to ensure that the drivers on the sections of such cross-border services

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13 "Uniform rules concerning the technical admission of railway material used in international traffic". For the interaction between the vehicle authorisations pursuant to Directive 2008/57/EC and pursuant to the COTIF framework, see Article 3a of Appendix G to COTIF.

14 "Uniform rules concerning the validation of technical standards and the adoption of uniform technical prescriptions applicable to railway material intended to be used in international traffic".

15 Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community, OJ L 315, 3.12.2007, p. 51.

which are located in the EU-27 territory have required licences/certificates issued in the EU-27.

The website of the Commission on rail transport (https://ec.europa.eu/transport/modes/rail_en) provides for general information concerning the rules for rail transport in the Union. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Mobility and Transport

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Brussels, 19 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF ROAD TRANSPORT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, road transport operators within the meaning of Article 2 of Regulation (EC) No 1071/2009[4] are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of road transport no longer apply to the United Kingdom. This has, in particular, the following consequences in the different areas of road transport:

- **CERTIFICATES, LICENCES AND ATTESTATIONS**

  - Certificate of professional competence for road transport operators/transport managers: According to Articles 3(1)(d), 4(1) and 8 of Regulation (EC) No 1071/2009, natural persons engaged in the occupation of **road transport operator** in the EU and **transport managers** employed by an undertaking engaged in the occupation of road transport operator have to hold a **certificate of professional competence** issued by authorities of a EU Member State or by bodies duly authorised by a EU Member State for that purpose. As of the withdrawal date, certificates of professional competence issued by an authority of

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC, OJ L 300, 14.11.2009, p.51.

the United Kingdom or a body authorised by the United Kingdom will no longer be valid in the EU-27.

- Driver attestation for third-country drivers: According to Article 3 of Regulation (EC) No 1072/2009,[5] international carriage shall be subject to a Community licence[6] and, when the driver is a national of a third country, in conjunction with a **driver attestation**.

  Thus, as of the withdrawal date, drivers who are United Kingdom nationals and do not constitute long-term residents in the Union, within the meaning of Council Directive 2003/109/EC, and who work for a Union haulier holding a Community licence require a driver attestation. In accordance with Article 5(2) of Regulation (EC) No 1072/2009[7], this **driver attestation** shall be issued by the competent authorities of the Member State of establishment of the haulier holding a Community licence for each driver who is neither a national nor a long-term resident within the meaning of Council Directive 2003/109/EC[8] whom that haulier lawfully employs or who is put at his disposal.

- Certificate of professional competence for drivers: In accordance with Directive 2003/59/EC[9], **drivers** in the Union of a vehicle intended for the carriage of goods or for the carriage of passengers need to hold a **certificate of professional competence** certifying the initial qualification or periodic training and issued by competent authorities of an EU Member State or by an approved training centre in an EU Member State. Drivers who are nationals of an EU Member State obtain their initial qualification in the EU Member State of their normal residence while drivers who are nationals of third countries do this in the EU Member State which issued a work permit to them. As of the withdrawal date, certificates of professional competence issued by the United Kingdom or by an approved training centre in the United Kingdom will no longer be valid in the EU-27.

  As of the withdrawal date, drivers who are nationals of the United Kingdom but employed by an undertaking established in the Union or Union nationals resident in the United Kingdom but employed by an undertaking established in the Union will have to follow the professional drivers training in the EU-27 Member State where the undertaking employing them is established.

- Driving licence: According to Article 2 of Directive 2006/126/EC[10], driving licences issued by Member States of the Union are mutually recognised. As of the

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5 Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market, OJ L 300, 14.11.2009, p.72.

6 Regarding the Community licence, see below.

7 Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market, OJ L 300, 14.11.2009, p.72.

8 Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 016, 23.1.2004, p.44.

9 Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC, OJ L 226 10.9.2003, p. 4.

10 Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (Recast), OJ L 403, 30.12.2006, p. 18.

withdrawal date, a driving licence issued by the United Kingdom will no longer be recognised by the Member States on the basis of this legislation.

The recognition of driving licences issued by third countries is not addressed in Union law but regulated at Member States level. In Member States which are Contracting Parties to the 1949 Geneva Convention on Road Traffic, this Convention applies.[11]

- **ACCESS TO THE PROFESSION / TO THE MARKET**

  - According to Article 3(1)(a) of Regulation (EC) No 1071/2009, **undertakings engaged in the occupation of road transport operator** in the Union must have an effective and stable establishment in an EU Member State. As of the withdrawal date, undertakings that have their establishment in the United Kingdom will no longer fulfil this requirement.

  - According to Article 4 of Regulation (EC) No 1071/2009, an undertaking which engages in the occupation of road transport operator shall designate a **transport manager**. In accordance with Article 4(1)(c) of that Regulation, this transport manager has to be resident in the Union. As of the withdrawal date, transport managers resident in the United Kingdom working for a Union road transport operator will no longer fulfil this requirement. Undertakings established in the Union that only have a transport manager resident in the United Kingdom can no longer engage in the occupation of road transport operator within the EU-27.

  - The **international carriage of goods** in the Union is subject to possession of a **Community licence**, in accordance with Regulation (EC) No 1072/2009. These Community licences can only be issued by the competent authorities of the EU Member State in which the haulier is established and where such haulier is entitled to carry out the international carriage of goods by road. As of the withdrawal date, a Community licence issued by the competent authorities of the United Kingdom will no longer be valid in the EU-27. Hauliers established in the United Kingdom will no longer have access to the internal road haulage market in the Union.

    However, the multilateral quota system managed by the European Conference of Ministers of Transport (now International Transport Forum) would apply at that point. Hence, cross-trade operations (i.e. the carriage of goods from country A to country B by a haulier established in country C) by United Kingdom hauliers in the Union and by Union hauliers from or to the United Kingdom could be carried out under that system and within the limits thereof. That system does not permit cabotage operations, i.e. operations by foreign carriers within a single State. This means, in particular, that United Kingdom hauliers will no longer be able to perform cabotage operations within any of the EU-27 Member States.

[11] For further information the responsible authority of the respective Member State should be consulted.

- In accordance with Regulation (EC) No 1073/2009[12], the **international carriage of passengers by coach and bus** is subject to the possession of a Community licence issued by the competent authorities of the Member State of establishment. As of the withdrawal date, **Community licences** issued by the United Kingdom will no longer be valid in the EU-27.

- **Regular international services** between Member States are subject to an authorisation in accordance with Chapter III of Regulation (EC) No 1073/2009. As of the withdrawal date, authorisations involving the United Kingdom (for pick up or set down of passengers) are no longer valid in the EU-27.

- **INTERNATIONAL ASPECTS**

  - As of the withdrawal date, the United Kingdom is no longer within the scope of the **Interbus Agreement**[13] on the **international occasional carriage** of passengers by coach and bus, the very similar ASOR Agreement of 1982, [14] as well as the Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road.[15]

Preparing for the withdrawal is not just a matter for Union and national authorities, but also for private parties.

The website of the Commission on road transport (https://ec.europa.eu/transport/modes/road_en) provide for general information concerning the rules for road transport in the Union. These pages will be updated with further information, where necessary.

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[12] Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006, OJ L 300 14.11.2009, p. 88.

[13] Agreement on the international occasional carriage of passengers by coach and bus (INTERBUS) of 30 June 2001, OJ L 321, 26.11.2002, p. 13.

[14] Agreement on the International Carriage of Passengers by Road by means of Occasional Coach and Bus Services (ASOR) of 26 May 1982, OJ L 230, 5.8.1982, p. 39.

[15] OJ L 114, 30.04.2002, p. 91.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Brussels, 19 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON THE MINIMUM LEVEL OF TRAINING OF SEAFARERS AND THE MUTUAL RECOGNITION OF SEAFARERS' CERTIFICATES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all seafarers subject to Directive 2008/106/EC on the minimum level of training of seafarers[4] and Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States[5] are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of minimum level and mutual recognition of seafarers' certificates no longer apply to the United Kingdom. This has in particular the following consequences for the **validity of certificates**:

- According to Article 3 of Directive 2008/106/EC, seafarers serving on board a vessel flying the flag of an EU Member State have to hold the requisite certificate of competency or certificate of proficiency (hereafter "certificates") issued by that

1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers, OJ L 323, 3.12.2008, p. 33.

5 Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005 on the mutual recognition of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC, J L 255, 30.9.2005, p. 160.

Member State, by another EU Member State or by one of the third countries recognised under Article 19 of Directive 2008/106/EC. The Member State of the vessel recognises the certificates issued to seafarers by the other Member States or the recognised third countries, for such certificates to be valid in that Member State. There are two distinct recognition procedures:

- Article 3 of Directive 2005/45/EC provides that every Member State shall recognise the certificates issued to seafarers by the other Member States: the recognition of these certificates (by the Member State of the vessel) must be accompanied by an 'endorsement attesting such recognition'.
- Article 19(4) of Directive 2008/106/EC provides that a Member State may decide to endorse the certificates issued by the recognised third countries.

- As of the withdrawal date, the certificates issued to seafarers by the United Kingdom can no longer be presented for an 'endorsement attesting recognition' by an EU-27 Member State under Directive 2005/45/EC.

  The 'endorsement[s] attesting recognition' issued prior to the withdrawal date by EU-27 Member States under Directive 2005/45/EC of certificates issued to seafarers by the United Kingdom will continue to be valid until their expiry. A master or an officer holding an 'endorsement attesting recognition' issued by a Member State will be able to continue working on board vessels flying the flag of that Member State. However, they will not be able to change and work on board a vessel flying the flag of another Member State on the basis of their existing UK-issued certificates, given that the basis for the recognition of their certificates by that Member State (Directive 2005/45/EC) would no longer be applicable.

- As of the withdrawal date, recognition by an EU-27 Member State of certificates issued to seafarers by the United Kingdom will be subject to the conditions set out in Article 19 of Directive 2008/106/EC[6], in line with the new status of the United Kingdom as a third country.

Preparing for the withdrawal is not just a matter for Union and national authorities, but also for private parties.

The website of the Commission on maritime transport (https://ec.europa.eu/transport/modes/maritime/seafarers_en) provides general information. These pages will be updated with further information, where necessary.

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Directorate-General for Mobility and Transport

[6] The list of third countries recognised at EU level was published in OJ C 261, 8.8.2015, p. 25. Following the publication of this list, Montenegro was recognised by the Commission Implementing Decision published in OJ L 107, 25.4.2017, p. 31, Ethiopia was recognised by the Commission Implementing Decision published in OJ L 177, 8.7.2017, p. 43 and Fiji was recognised by the Commission Implementing Decision published in OJ L 202, 3.8.2017, p. 6.

Justice and Consumers & Mobility and Transport

EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Brussels, 27 February 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON CONSUMER PROTECTION AND PASSENGER RIGHTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders concerned are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the general EU rules in the field of consumer law (such as the Unfair Commercial Practices Directive[4], the Consumer Rights Directive[5], the

1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'), OJ L 149, 11.6.2005, p. 22.

5 Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council, OJ L 304, 22.11.2011, p. 64.

Unfair Contract Terms Directive[6], the Consumer Sales and Guarantees Directive[7], the Package Travel Directive[8] - see sections 1 and 2 below) and the EU passenger rights legislation (see section 3 below) no longer apply to the United Kingdom.[9]

This has in particular the following consequences:

1. PURCHASE BY CONSUMERS IN THE EU OF PRODUCTS OR SERVICES FROM TRADERS ESTABLISHED IN THE UNITED KINGDOM[10]

On or after the withdrawal date, consumers in the EU might purchase products or services from traders established in the United Kingdom.

According to EU law, where a consumer concludes a contract with a professional in another country who, by any means, directs his commercial activities to the consumer's country of residence, the contract is generally governed by the law of the country where the consumer has his or her habitual residence. It is possible to choose another law but that choice cannot deprive the consumer of the protection afforded by the law of the habitual residence which cannot be derogated from by agreement under that law.[11] On that basis EU courts will continue to apply the EU rules on consumer protection even though the trader is in the United Kingdom. This includes in particular the rules set out in:

- the Unfair Commercial Practices Directive;[12]
- the Consumer Rights Directive;[13]

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6 Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, OJ L 95, 21.4.1993, p. 29.

7 Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees, OJ L 171, 7.7.1999, p. 12.

8 Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, OJ L 326, 11.12.2015, p. 1.

9 This notice does not address the specific EU rules on e-commerce, and in particular, the Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') OJ L 178, 17.7.2000, p. 1.

10 This notice does not address other practical aspects of cross-border purchase in third countries, such as EU rules related to value added tax, customs, and restrictions of importation.

11 Article 6(1) of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), OJ L 177, 4.7.2008, p. 6. For exceptions to this general rule, see Article 6(2)-(4) of Regulation (EC) No 593/2008.

12 Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive), OJ L 149, 11.6.2005, p. 22.

13 Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, OJ L 304, 22.11.2011, p. 64.

- the Unfair Contract Terms Directive;[14]
- the Consumer Sales and Guarantees Directive;[15]
- the Price Indication Directive[16] and
- the Package Travel Directive.[17]

If a EU-27 consumer were to bring an individual legal action[18] before a court of the EU-27 against a trader domiciled in the United Kingdom, the withdrawal has no implications for establishing international jurisdiction where the trader has directed his activities to the Member State of the consumer's domicile[19]; in these cases the EU jurisdictional rules which allow the consumer to sue the trader in the EU-27 Member State where the consumer is domiciled apply, irrespective of whether the trader is domiciled in the EU or in a third country.[20] However, the recognition and enforcement of an EU judgement in the United Kingdom and *vice versa* will be governed, as of the withdrawal date by national rules in the EU-27 and in the United Kingdom.[21]

As of the withdrawal date, EU law ensuring the availability of out-of-court dispute resolution[22] and facilitating access to online dispute resolution[23] no longer applies to

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14 Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, OJ L 95, 21.4.1993, p. 29.

15 Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees, OJ L 171, 7.7.1999, p. 12.

16 Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of prices of products offered to consumers, OJ L 80, 18.3.1998, p. 27.

17 Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, OJ L 326, 11.12.2015, p. 1.

18 While cross-border litigation by consumers is relatively rare, this aspect is addressed here to provide a complete overview.

19 Consumer contracts covered in Article 17(1)(a)-(c) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, OJ L 351, 20.12.2012, p. 1.

20 Article 18(1) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, OJ L 351, 20.12.2012, p. 1.

21 For procedures and proceedings pending on the withdrawal date, the EU is trying to agree solutions for some of the situations that might arise. The relevant essential principles of the EU position in the field of judicial cooperation in civil and commercial matters have been published here: https://ec.europa.eu/commission/publications/position-paper-judicial-cooperation-civil-and-commercial-matters_en.

22 Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (Directive on consumer ADR), OJ L 165, 18.6.2013, p. 63.

23 Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes (Regulation on consumer ODR), OJ L 165, 18.6.2013, p. 1.

the United Kingdom and the EU online dispute resolution platform is no longer available in relation to traders established in the United Kingdom.

Concerning public enforcement (e.g. to achieve the cessation of a commercial practice) the Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)[24] no longer applies to the United Kingdom. This means that, as from the withdrawal date, United Kingdom authorities will not be obliged under EU law to cooperate in the case of cross-border claims.

In addition, as of the withdrawal date, EU law giving to certain "qualified entities", designated by EU Member States, legal standing for bringing injunction actions in another Member State no longer applies to the United Kingdom.[25]

2. INSOLVENCY PROTECTION OF TRAVELLERS (PACKAGE TRAVEL)

- According to EU law, package travel organisers established in the EU are obliged to provide securities for the refund and for the traveller's repatriation in case of the organiser's insolvency.[26] Organisers not established in the EU which sell or offer travel packages to consumers in the EU, or which by any means direct such activities to the EU, also must provide such insolvency protection in each of the Member States they are selling to.[27] However, where an organiser established in a third country does not offer travel packages to consumers in the EU and does not direct its selling activities to the EU (passive sales), EU law providing mandatory insolvency protection does not apply. This means that in such cases insolvency protection granted by EU law will not apply to insolvencies of organisers established in the United Kingdom occurring as of the withdrawal date.

- As of the withdrawal date, EU law providing for the mutual recognition of insolvency protection taken out in accordance with the requirements of the home country of an organiser no longer applies with regard to insolvency protection taken out in accordance with requirements applicable in the United Kingdom.[28] This means that, as of the withdrawal date, insolvency protection taken out in the United Kingdom no longer serves to comply with the requirements for insolvency protection of package travel organisers in accordance with Article 17 of Directive (EU) 2015/2302.

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24 OJ L 364, 9.12.2004, p. 1.

25 Article 4 of Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests, OJ L 110, 1.5.2009, p. 30.

26 See first sub-paragraph of Article 17(1) of Directive (EU) 2015/2302.

27 See second sub-paragraph of Article 17(1) of Directive (EU) 2015/2302.

28 Article 18(1) of Directive (EU) 2015/2302.

3. EU PASSENGER RIGHTS

- Air passengers: As of the withdrawal date, EU law on air passenger rights[29] no longer applies to passengers departing from an airport located in the United Kingdom to an airport situated in the territory of a EU-27 Member State, unless the operating air carrier of the flight concerned is a Union carrier, i.e. has an operating licence granted by an EU-27 Member State. This means that, despite the withdrawal of the United Kingdom from the EU, air passenger rights granted by EU law continue to apply to passengers departing from the United Kingdom to an airport situated in the territory of an EU-27 Member State with a Community carrier. However, air passenger rights granted by EU law do not apply to flights departing as of the withdrawal date from the United Kingdom to the EU-27 with non-Community carriers.

  EU law granting specific rights for disabled persons and persons with reduced mobility travelling by air[30] will no longer apply to disabled persons and persons with reduced mobility using commercial passenger air services who, as of the withdrawal date, depart from, transit through, or arrive at an airport in the United Kingdom. However, certain rights, such as assistance by air carriers, continue to apply to air passengers departing from an UK airport to an EU-27 airport if the operating carrier is a Community air carrier.[31]

- Ship passengers: EU law on ship passenger rights[32] continues to apply on and after the withdrawal date to passengers where the port of embarkation is in the EU-27[33] or in the United Kingdom, provided that the port of disembarkation is in the EU-27 and the service is operated by a carrier established within the territory of a Member State or offering passenger transport services to or from a Member State ("Union carrier").[34]

- Bus and coach passengers: EU law on rights of passengers in bus and coach transport[35] continues to apply on and after the withdrawal date to passengers

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29 Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, OJ L 46, 17.2.2004, p. 1.

30 Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air OJ L 204, 26.7.2006, p. 1.

31 Article 1(3) of Regulation (EC) No 1107/2006.

32 Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway, OJ L 334, 17.12.2010, p. 1.

33 Article 2(1)(a) of Regulation (EU) No 1177/2010.

34 Article 2(1)(b) and 3(e) of Regulation (EU) No 1177/2010. Specific rules apply to cruise passengers, see Article 2(1)(c) of Regulation (EU) No 1177/2010.

35 Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport, OJ L 55, 28.2.2011, p. 1.

travelling with regular services[36] to or from the United Kingdom where the boarding or the alighting point of the passenger is situated in the EU-27, and the scheduled distance of the service is 250km or more.[37]

- Rail passengers: EU law on rail passengers' rights[38] continues to apply on and after the withdrawal date to rail passenger services in the territory of the Union,[39] provided that the railway undertaking is licensed in accordance with Article 17 of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area.[40]

The websites of the Commission on consumer protection (https://europa.eu/youreurope/citizens/consumers/) and passenger rights (https://europa.eu/youreurope/citizens/travel/passenger-rights/index_en.htm) provide general information. These pages will be updated with further information, where necessary.

European Commission
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[36] Specific rules apply to passengers travelling with occasional services, see Article 2(3) of Regulation (EU) No 181/2011.

[37] Article 2(1) of Regulation (EU) No 181/2011.

[38] Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations OJ L 315, 3.12.2007, p. 14.

[39] Article 2(1) of Regulation (EC) No 1371/2007.

[40] OJ L 343, 14.12.2012, p. 32.

Health and Food Safety

EUROPEAN COMMISSION
DIRECTORATE-GENERAL HEALTH AND FOOD SAFETY

Brussels, 16 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF BREEDING OF ANIMALS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless the withdrawal agreement[1] establishes another date, all Union primary and secondary law ceases to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ("the withdrawal date")[2]. The United Kingdom would then become a 'third country'[3].

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all breeders referred to in Article 2(5) and (6) of Regulation (EU) 2016/1012 of the European Parliament and of the Council[4] are reminded of legal repercussions , which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of Regulation (EU) 2016/1012 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals of the bovine, ovine, caprine, porcine and equine species, hybrid breeding pigs and the germinal products thereof no longer apply to the United Kingdom. This has, in particular, the following consequences in the different areas of animal breeding:

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) No 652/2014, Council Directives 89/608/EEC and 90/425/EEC and repealing certain acts in the area of animal breeding ('Animal Breeding Regulation') (OJ L 171, 29.6.2016, p. 66).

- As of the withdrawal date, breed societies and breeding operations in the United Kingdom will no longer be listed in accordance with Article 7 of Regulation (EU) 2016/1012.

- As of the withdrawal date, purebred breeding animals and hybrid breeding pigs, or the offspring of germinal products of those animals, may only be entered in breeding books or registered in breeding registers established in Member States of EU-27, if they were accompanied by a zootechnical certificate in accordance with Commission Implementing Regulation (EU) 2017/717[5], issued by a breeding body in the United Kingdom if listed in accordance with Article 34 of Regulation (EU) 2016/1012.

- Breeders who have their breeding animals entered in breeding books established by breed societies or registered in breeding registers established by breeding operations recognised in the United Kingdom may consider to enter or register those animals before the withdrawal date (also) in the appropriate breeding books and registers established for the same breed or cross in a Member State of EU-27.

- Equidae imported into a Member State of EU-27 from the United Kingdom after the withdrawal date shall be identified, as any equidae imported from other third countries, in accordance with Articles 14 and 15 of Regulation (EU) 2015/262.[6]

The website of the Commission on "Zootechnics"[7] provides general information concerning animal breeding and specific information on approved breeding organisations and breeders associations that keep herdbooks for different breeds.

The website of the Commission on identification of equine animals[8] provides general information concerning the identification of equidae and specific information on issuing bodies for identification documents for equidae.

These pages will be updated with further information, where necessary.

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5 Commission Implementing Regulation (EU) 2017/717 of 10 April 2017 laying down rules for the application of Regulation (EU) 2016/1012 of the European Parliament and of the Council with regard to the model forms of zootechnical certificates for breeding animals and their germinal products (OJ L 109, 26.4.2017, p. 9).

6 Commission Implementing Regulation (EU) 2015/262 of 17 February 2015 laying down rules pursuant to Council Directives 90/427/EEC and 2009/156/EC as regards the methods for the identification of equidae (Equine Passport Regulation) (OJ L 59, 3.3.2015, p. 1).

7 https://ec.europa.eu/food/animals/zootechnics/legislation_en

8 https://ec.europa.eu/food/animals/identification/equine_en

EUROPEAN COMMISSION
DIRECTORATE-GENERAL HEALTH AND FOOD SAFETY

Brussels, 23 January 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON ANIMAL FEED

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, business operators involved in the activities falling under the scope of animal nutrition, such as applicants and authorisation holders of feed additives, applicants requesting an update of the list of feed intended for particular nutritional purposes ("PARNUTS") and feed business operators (FBOs) intending to export to the EU, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of animal nutrition no longer apply to the United Kingdom. This has, in particular, the following consequences in the different areas of EU feed law:

- **applicants (natural or legal persons) for authorisation of feed additives** must be established within the EU or the European Economic Area (EEA) or designate a representative established within the EU and communicate its relevant contact details to the European Commission in accordance with Article 4(3) of Regulation (EC) No 1831/2003 on additives for use in animal nutrition;

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

- **holders of authorisations of feed additives linked to an authorisation holder**[4] have to designate a representative established within the EU or the EEA. The relevant contact details of the representative have to be communicated to the European Commission;
- **applicants for authorisations of feed additives** for which the authorisation has not yet been granted by an implementing Regulation, because it is in process of evaluation or authorisation, have to designate a representative established within the EU or the EEA. The relevant contact details of the representative have to be communicated to the European Commission;
- **applicants for generic authorisations**[5] of feed additives for which the authorisation has not yet been granted by an implementing Regulation because it is in process of evaluation or authorisation, have to designate a representative established within the EU or the EEA. The relevant contact details of the representative have to be communicated to the European Commission;
- **applicants (natural or legal persons) requesting to update the list of PARNUTs** for which the authorisation is not yet granted, because it is in process of evaluation or authorisation, have to designate a representative established within the EU or the EEA and communicate its contact details to the European Commission. In addition to applications introduced by natural or legal persons, Member States may apply to update the list of PARNUTs;
- **FBOs intending to export to the EU** must designate a representative within the EU or the EEA for the establishments involved in that activity. In accordance with EU legislation on official controls and on feed hygiene, Member States are responsible for the authorisation of such imports from third countries. The representatives have certain obligations that should be considered by FBOs when exporting to the EU.

Applicants, holders of authorisations and FBOs will need to act sufficiently in advance to avoid any impact on the continuous supply of feed within the European Union. The necessary information will need to be submitted in due time considering the procedural timelines foreseen in the regulatory framework.

The website of the Commission on animal feed (https://ec.europa.eu/food/safety/animal-feed_en) provides general information on animal feed as well as a series of "Questions and answers" in relation to animal nutrition. These pages will be updated with further information, where necessary.

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[4] Additives containing, consisting of or produced from GMOs, zootechnical additives, coccidiostats and histomonostats.

[5] Technological additives, sensory additives and nutritional additives.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Brussels, 13 November 2018
REV1 – Replaces the Q&A document
published on 21 September 2017

QUESTIONS AND ANSWERS RELATED TO THE UNITED KINGDOM'S WITHDRAWAL FROM THE EUROPEAN UNION WITH REGARD EU RULES ON ANIMAL FEED

On 23 January 2018, the European Commission services published a "N*otice to stakeholders - Withdrawal of the United Kingdom and EU rules on animal feed*".[1] This notice recalled the following:

"*The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement*[2] *establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').*[3] *The United Kingdom will then become a 'third country'.*[4]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, business operators involved in the activities falling under the scope of animal nutrition, such as applicants and authorisation holders of feed additives, applicants requesting an update of the list of feed intended for particular nutritional purposes ("PARNUTS") and feed business operators (FBOs) intending to export to the EU, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of animal nutrition no longer apply to the United Kingdom."

This list of Questions and Answers (Q&A pairs) which has been drafted by the European Commission services, aims at giving further guidance on the basis of the above-

[1] https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#sante.

[2] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[3] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[4] A third country is a country not member of the EU.

mentioned notice to stakeholders. The list of Q&A pairs will be further updated and complemented when necessary.

1. WHAT ARE THE EU RULES FOR FEED?

Four different pieces of feed legislation lay down requirements for non-EU countries that will entail certain obligations for UK feed business operators (FBOs) as regards:

- Operators intending to export to the EU: Regulation (EC) No 183/2005 laying down requirements for feed hygiene[5] and Commission Directive 98/51/EC;[6]
- Applicants for an authorisation of feed additives: Regulation (EC) No 1831/2003 on additives for use in animal nutrition;[7]
- Applicants for the authorisation of particular nutritional purposes (PARNUTs): Regulation (EC) No 767/2009 on the placing on the market and use of feed.[8]

2. OPERATORS INTENDING TO EXPORT TO THE EU

2.1. What are the requirements for importing feed into the EU?

The list of third countries from which feed may be imported into the EU[9] is not yet drawn up. In accordance with Article 24 of Regulation (EC) No 183/2005, the conditions set out in Article 6 of Commission Directive 98/51/EC[10] apply, which provide for the following:

- Third country establishments must have a representative established in the European Union;

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5 Regulation (EC) No 183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene, OJ L 35, 8.2.2005, p. 1.

6 Commission Directive 98/51/EC of 9 July 1998 laying down certain measures for implementing Council Directive 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector, OJ L 208, 24.7.1998, p. 43. This Directive was repealed by Regulation (EC) No 183/2005; however interim measures apply pursuant to Article 24 thereof.

7 Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition, OJ L 268, 18.10.2003, p. 29.

8 Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, OJ L 229, 1.9.2009, p. 1.

9 Article 23 of Regulation (EC) No 183/2005.

10 Commission Directive 98/51/EC of 9 July 1998 laying down certain measures for implementing Council Directive 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector, OJ L 208, 24.7.1998, p. 43

- The representative must ensure that the establishments comply with feed hygiene requirements at least equivalent to those established in the EU;

- The representative must keep a register of products placed on the EU market from the establishments that he represents.

3. AUTHORISATION OF FEED ADDITIVES LINKED TO AN AUTHORISATION HOLDER

3.1. I am a UK operator that applied for an authorisation for a feed additive linked to an authorisation holder but my product is not yet authorised. Do I have any obligation?

According to Article 3(3) of Regulation (EC) No 1831/2003, with regard to certain additives[11] no person other than the holder of the authorisation shall first place the product on the market. The name of the authorisation holder is included in the Regulation granting the authorisation of those additives.[12]

According to Article 4 of Regulation (EC) No 1831/2003, the applicant for an authorisation or his representative shall be established in the EU.

Therefore, where the applicant for an authorisation or his representative is currently established in the United Kingdom, the applicant should establish in the EU or designate a representative established in the EU. The relevant new contact details should be communicated to the European Commission.

3.2. What are the obligations for a UK holder of an authorisation of a feed additive already authorised?

According to Article 4 of Regulation (EC) No 1831/2003, the applicant for an authorisation or his representative shall be established in the EU.

Therefore, a holder established in the UK should establish in the EU or designate a representative established in the EU.

The authorisation has to be amended accordingly.

The authorisation holder should communicate the relevant contact details to the European Commission, so that the Commission can take steps to amend the Regulation authorising the additive following the procedure laid down in Article 13(3) of Regulation (EC) No 1831/2003. This procedure requires some months to be completed (around 4 months), therefore, UK holders of authorisation must start the procedure well in advance so it is completed before the withdrawal date.

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[11] Additives linked to an authorisation holder are those containing, consisting of or produced from GMOs and additives belonging to the following categories: zootechnical additives, coccidiostats and histomonostats.

[12] Article 9(6) of Regulation (EC) No 1831/2003.

4. AUTHORISATION OF GENERIC FEED ADDITIVES

For feed additives that are not linked to a specific authorisation holder (i.e. feed additives other than those referred to in section 3) ("generic feed additives")[13] the following applies:

- According to Article 4(3) of Regulation (EC) No 1831/2003, an applicant for an authorisation or his representative shall be established in the EU. If the authorisation has not yet been granted, the applicant established in the United Kingdom should establish in the EU or designate, in accordance with Article 7(1), a representative established in the EU and communicate their relevant contact details to the European Commission;

- The same applies, according to Article 13(5) of Regulation (EC) No 1831/2003, where applicants request a new use, a modification or a renewal of an authorisation;

- If the additive is already authorised, the (former) applicant does not need to be established in the EU or designate a representative in the EU.

5. LIST OF INTENDED USES OF FEED INTENDED FOR PARTICULAR NUTRITIONAL PURPOSES (PARNUTS)

The applications for PARNUTs are regulated in Articles 9 and 10 of Regulation (EC) No 767/2009. According to Article 10(2) of Regulation (EC) No 767/2009, an applicant for updating the list of intended uses has to be established in the EU.

If the authorisation is not yet granted, the applicant has to be established in the EU.

If the PARNUT is already authorised, the (former) applicant does not need to be established in the EU.

[13] Technological additives, sensory additives, and nutritional additives. See Annex I to Regulation (EC) No 1831/2003.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL HEALTH AND FOOD SAFETY

Brussels, 23 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES FOR AUTHORISATIONS AND CERTIFICATES FOR TRANSPORTERS OF LIVE ANIMALS, DRIVERS AND ATTENDANTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for European and national authorities, but also for private parties. In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all business operators and persons holding transporters authorisations, certificates of approval of means of transport and certificates of competence for drivers and attendants pursuant to the provisions of Council Regulation (EC) No 1/2005 on the protection of animals during transport[4] (later called "the Regulation"), are reminded of certain legal repercussions which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, Council Regulation (EC) No 1/2005 on the protection of animals during transport no longer applies to the United Kingdom. This has, in particular, the following consequences for the authorisations and certificates for transporters of live animals, drivers and attendants.

Transporter authorisations

Transporter authorisations[5] granted by the competent authorities of the United Kingdom pursuant to Articles 10 or 11 of the Regulation will no longer be valid in the European Union from the moment the United Kingdom becomes a third country.

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 OJ L 3, 5.1.2005, p. 1.

5 A transporter authorisation issued by the competent authority is required to transport live animals pursuant to Article 6(1) of the Regulation.

Transporters who hold such an authorisation and want to continue their professional activities in the European Union will have to apply for a new authorisation with an EU-27 Member State.

Certificates of approval of means of transport

Certificates of approval[6] granted by the competent authorities of the United Kingdom pursuant to Articles 18 or 19 of the Regulation will no longer be valid in the European Union from the moment the United Kingdom becomes a third country.

Transporters who want to continue their professional activities in the European Union will have to apply for the relevant certificate of approval with an EU-27 Member State.

Certificates of competence for drivers and attendants

Certificates of competence[7] granted by the competent authorities of the United Kingdom pursuant to Article 17(2) of the Regulation will no longer be valid from the moment the United Kingdom becomes a third country.

Persons who hold such a certificate of competence and want to continue their professional activities in the European Union will have to apply for a new certificate with an EU-27 Member State.

Transporters are also invited to inform the persons concerned of the need to apply for a new certificate.

The website of the Commission on animal welfare (https://ec.europa.eu/food/animals/welfare_en) provides general information concerning animal welfare. These pages will be updated with further information, where necessary-

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6 A certificate of approval for means of transport issued by the competent authorities is required to transport animals by road over long journeys pursuant to Article 7(1) of the Regulation.

Certificates of approval are also required to transport certain animals by sea in livestock vessels (Domestic Equidae and domestic animals of bovine, ovine, caprine and porcine species) pursuant to Article 7(2) of the Regulation as well as to transport certain animals (Domestic Equidae and domestic animals of bovine, ovine, caprine and porcine species) in containers by road or water for long journeys pursuant to Article 7(3) of the Regulation.

7 A certificate of competence issued by the competent authorities (or a body designated by them) is required for persons who drive (or act as an attendant on) road vehicle transport certain animals (Domestic Equidae and domestic animals of bovine, ovine, caprine and porcine species and poultry) pursuant to Article 6 (5) of the Regulation.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL HEALTH AND FOOD SAFETY

Brussels, 23 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON BIOCIDAL PRODUCTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless the withdrawal agreement[1] establishes another date, all Union primary and secondary law ceases to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ("the withdrawal date"). The United Kingdom will then become a 'third country'.

Preparing for the withdrawal is not just a matter for European and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, business operators involved in the activities falling under the scope of Regulation (EC) No 528/2012 concerning the making available on the market and use of biocidal products are reminded of certain legal repercussions stemming from currently applicable rules of Union law which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of biocidal products no longer apply to the United Kingdom. In particular, business operators should consider that, according to Union law, third countries cannot act as evaluating Member States or reference Member States[2].

Concerning **submissions of any new applications**, business operators should take into account the expected timelines of the different regulatory procedures in which the United Kingdom would be acting as, for example, evaluating Member State or reference Member State. Taking account of these uncertainties as well as the regulatory framework, business operators should consider taking the relevant actions. For example, where there is a risk that those procedures are not concluded by the date that the United Kingdom leaves the Union, applicants may choose by preference another evaluating Member State or reference Member State to carry out the evaluation.

Concerning those **on-going procedures** for which the United Kingdom is currently carrying out an evaluation, business operators should carefully monitor their progress. Where there are clear indications that the procedure will not be concluded by the withdrawal date, taking account of the uncertainties as well as the regulatory framework, business operators should

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] With the exception of contracting States of the European Economic Area ("EEA countries") and Switzerland.

consider taking the relevant actions. For example, business operators may consider changing to another evaluating Member State.

Business operators should also consider that, according to Union law :

- holders of product authorisations must be established within the Union (or EEA countries or Switzerland);
- active substance or product suppliers included in the list referred to in Article 95 of the Biocidal Products Regulation (EU) No 528/2012 must be established or have a representative established within the Union (or EEA countries or Switzerland).

The Commission services and the European Chemicals Agency (ECHA) are working with Members States, EEA countries and Switzerland to establish a coordinated way forward for the timely communication, agreement and technical transfer of the file in case change is needed. This will be particularly relevant for the review programme of existing active substances for which the United Kingdom was assigned as evaluating Member State by law (Commission Delegated Regulation (EU) No 1062/2014).

The website of the Commission on approval of active substances (https://ec.europa.eu/health/biocides/policy_en) provides general information concerning the approval of active substances as well as a series of Questions & Answers (Q&A) in relation to Biocidal Products Regulation (EU) No 528/2012 . This information is also available on the ECHA website.

These pages will be updated with further information and relevant Q&A, where necessary.

European Commission
Directorate-General Health and Food Safety

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Brussels, 23 October 2018
REV1 – Replaces the Q&A document
published on 13 September 2017

QUESTIONS AND ANSWERS RELATED TO THE UNITED KINGDOM'S WITHDRAWAL FROM THE EUROPEAN UNION WITH REGARD TO THE BIOCIDES SECTOR

On 23 January 2018, the European Commission services published a "*Notice to stakeholders – withdrawal of the United Kingdom and EU rules on biocidal products*".[1] This notice recalled the following:

"*The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless the withdrawal agreement*[2] *establishes another date, all Union primary and secondary law ceases to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ("the withdrawal date"). The United Kingdom will then become a 'third country'.*

Preparing for the withdrawal is not just a matter for European and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, business operators involved in the activities falling under the scope of Regulation (EC) No 528/2012 concerning the making available on the market and use of biocidal products are reminded of certain legal repercussions stemming from currently applicable rules of Union law which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of biocidal products no longer apply to the United Kingdom. In particular, business operators should consider that, according to Union law, third countries cannot act as evaluating Member States or reference Member States[3]."

This list of Questions and Answers (Q&A pairs) which has been drafted by the European Commission services aims at giving further guidance on the basis of the above-mentioned notice to stakeholders. The list of Q&A pairs will be further updated and complemented when necessary.

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1 This notice replaced the notice of 13 September 2017.

2 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

3 With the exception of contracting States of the European Economic Area ("EEA countries") and Switzerland.

GENERAL

1. **My company is currently considering submitting an application under the 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], for which the UK authorities could act as evaluating Competent Authority (eCA) or reference Member State (refMS). How should we proceed?**

   Until the withdrawal date, the United Kingdom remains a member of the European Union, with all the rights and obligations that derive from membership. Thus, you may still choose the United Kingdom as eCA/refMS.

   However, as of the withdrawal date, the United Kingdom can no longer act as a eCA/refMS. This also applies if a withdrawal agreement is concluded since the United Kingdom cannot act as eCA/refMS during the transition period.[5] Applicants should take this into account when choosing the United Kingdom as their eCA/refMS as it also implies that the file would need to be handed over to another Member State taking up the role as eCA/refMS before the withdrawal date.

2. **Currently, the United Kingdom is acting as evaluating Competent Authority (eCA) or reference Member State (refMS) in an on-going regulatory procedure related to my company (e.g. active substance approval, renewal of an active substance approval, Union authorisation, simplified authorisation procedure, mutual recognition in parallel, renewal of product authorisations under Commission Delegated Regulation (EU) No 492/2014[6] or applications for minor or major changes under Commission Implementing Regulation (EU) No 354/2013[7]). What effect will the withdrawal of the United Kingdom have on the pending process?**

   According to Regulation (EU) No 528/2012, the role of evaluating Competent Authority (eCA) or reference Member State (refMS) is attributed to (the Competent Authority of) a Member State.[8]

   However, as of the withdrawal date, the United Kingdom can no longer act as an eCA/refMS. This also applies if a withdrawal agreement is concluded since the United Kingdom cannot act as eCA/refMS during the transition period[9].

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4 OJ L 167, 27.6.2012, p. 1.

5 See Article 123(6) of the draft Withdrawal Agreement, as agreed between the EU and the United Kingdom at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf

6 OJ L 139, 14.5.2014, p. 1.

7 OJ L 109, 19.4.2013, p. 4.

8 Through the EEA Agreement, as well as the Mutual Recognition Agreement with Switzerland, this is extended to further include Iceland, Liechtenstein, Norway, and Switzerland.

9 See Article 123(6) of the draft Withdrawal Agreement, as agreed between the EU and the United Kingdom at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf

Applicants in an ongoing procedure for which the United Kingdom is currently acting as eCA/refMS are advised to carefully monitor the UK authority's progress and to take the relevant actions. For example, if you see indications that the UK authority will not conclude the procedure by the withdrawal date, you may consider a transfer to another evaluating Member State.

The services of the European Commission and ECHA have been working with the EU-27 Member States, EEA countries and Switzerland to establish a coordinated approach to ensure a timely agreement and technical transfer of the file in case such a change is needed. The services of the European Commission and ECHA have already communicated some and will also communicate future transfers. This will be particularly relevant for the review programme of existing active substances for which the Commission Delegated Regulation (EU) No 1062/2014[10] assigned the United Kingdom as evaluating Member State (see more specific Q&A pairs below).

3. The manufacturing site of the active substance/biocidal product that my EU-27-based company is placing on the EU market is located in the United Kingdom. Do we need to be concerned about the withdrawal of the United Kingdom?

Regulation (EU) No 528/2012 does not set any specific requirement regarding the location of the manufacturing site(s) of active substances or biocidal products. Therefore, manufacturing can take place in third countries. Therefore, in this regards you will not need to take any action to continue complying with Regulation (EU) No 528/2012. However, shipments to the EU of this active substance/biocidal product will be, as of the withdrawal date, importations, which may have consequences from the viewpoint of other sectorial legislation (e.g. the 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[11], EU customs legislation, etc.).

4. Will ECHA still grant UK-based companies a right to refer to tests or studies on vertebrates that were submitted to ECHA or to a competent authority in connection with a previous application under Regulation (EU) No 528/2012 or Directive 98/8/EC[12], also after the withdrawal of the United Kingdom?

The data sharing mechanism under Articles 62 and 63 of Regulation (EU) No 528/2012 will still be available to such companies, for the purposes of Regulation (EU) No 528/2012; for example, where a UK-based company intends to submit an application for active substance approval – and it requires vertebrate data for its application.

In this connection, it should be stressed that it is a legal obligation for companies to make an inquiry to ECHA in the case of vertebrate data (see Article 62(2)(a) of Regulation (EU) No 528/2012).

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10 OJ L 294, 10.10.2014, p. 1.

11 OJ L 201, 27.7.2012, p. 60.

12 Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market, OJ L 123, 24.4.1998, p. 1.

5. **Will the substance or product-specific data owned by my UK-based company remain protected by the data protection rules of Regulation (EU) No 528/2012 after the withdrawal of the United Kingdom?**

   Yes. Data protection applies to all information submitted for the purposes of the Regulation (EU) No 528/2012 or its predecessor, Directive 98/8/EC, under the conditions set out in the Regulation (EU) No 528/2012.

ACTIVE SUBSTANCES

6. **What effect will the withdrawal of the United Kingdom have with regard to active substances that were originally evaluated by the United Kingdom and subsequently approved by the European Commission?**

   The withdrawal of the United Kingdom will not have any effect to the validity of the approval of these active substances.

7. **My company needs to submit an application for renewal of an approval of our active substance for which the United Kingdom acted as the evaluating Competent Authority (eCA) during the first approval procedure. Considering that the United Kingdom can no longer, as of the withdrawal date, act as eCA, can my company choose another competent authority as eCA?**

   Yes. Article 13(3) of Regulation (EU) No 528/2012 does not require that the eCA for the first approval shall be the eCA for the renewal, although it is usually recommended as a means to streamline the process. The mentioned provision requires that, when you submit your application for renewal, you shall indicate the name of the competent authority that you propose for evaluating your application for renewal and provide written confirmation that that competent authority agrees to do so.

   The services of the European Commission have been working in a coordinated manner with EU-27 Members States, EEA countries and Switzerland in order to identify new eCAs for concerned active substances. The services of the European Commission have already informed the original participants in the review programme about the new eCAs. ECHA will also make this information publicly available in order to inform other prospective applicants (e.g. alternative suppliers).

8. **What effect does the withdrawal of the United Kingdom have with regard to applications for approval of active substances, either within or outside the review programme, that are currently being assessed by the United Kingdom?**

   As of the withdrawal date, the United Kingdom can no longer act as the eCA. This also applies if a withdrawal agreement is concluded since the United Kingdom cannot act as eCA/refMS during the transition period.[13]

[13] See Article 123(6) of the draft Withdrawal Agreement, as agreed between the EU and the United Kingdom at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf.

The services of the European Commission have been working in a coordinated manner with EU-27 Members States, EEA countries and Switzerland in order to identify new eCAs for concerned existing active substances. The European Commission will adopt and publish, before the withdrawal date, an amendment to the Review Programme Regulation[14] listing the existing active substances and the eCAs that will assess them. The name of the new eCAs has already been directly communicated to the participants in the review programme.

The services of the European Commission have also identified new eCAs for the assessment of pending applications for approval of those active substances that are not subject to the Review Programme Regulation (e.g. new active substances). The name of those eCAs has also been directly communicated to applicants and will be made known on the ECHA's website.

9. My UK-based company is listed as a supplier according to Article 95 of Regulation (EU) No 528/2012. With a view to the withdrawal of the United Kingdom, what do I need to do?

According to Article 95(1) of Regulation (EU) No 528/2012, substance or product suppliers listed in the Article 95 list must be established within the European Union. Therefore, you will need to appoint a representative established within the Union (or the EEA countries or Switzerland) and communicate this to ECHA (by submitting a "request for correction"[15]) in due time, so that the information on the list is updated before the withdrawal date. Otherwise, the UK supplier will be removed from the Article 95 list, and biocidal products from this source would no longer be allowed to be made available in the EU.

10. I am a non-EU company and my EU representative for the purpose of Article 95 of Regulation (EU) No 528/2012 is established within the United Kingdom. With a view to the withdrawal of the United Kingdom, what do I need to do?

According to Article 95(1) of Regulation (EU) No 528/2012, substance or product suppliers listed in the Article 95 list must be established within the European Union. Therefore, you will need to appoint a new representative established within the Union (or EEA countries or Switzerland) and communicate this to ECHA (by means of a "request for correction"[16]) in due time, so that the information on the list is updated before the withdrawal date.

11. My EU-27-based company is listed under Article 95 of Regulation (EU) No 528/2012 as a supplier of a listed active substance for which we had purchased a letter of access (LoA) from a UK-based company. Will the withdrawal of the United Kingdom affect my company's listing under Article 95 of Regulation (EU) No 528/2012?

No. Data owners granting letters of access do not need to be EU-based.

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[14] The draft Delegated Regulation amending the Review programme Regulation has already been made publicly available through the "Better regulation" portal of the Commission at https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-2382032_en.

[15] https://echa.europa.eu/information-on-chemicals/active-substance-suppliers.

[16] https://echa.europa.eu/information-on-chemicals/active-substance-suppliers.

12. Will my UK-based company still be able to submit requests for active substance approval or inclusion of a substance on Annex I, after the withdrawal date?

Yes, third country entities can undertake such submissions. Contrary to the case of a product authorisation, applicants for the approval of an active substance or Annex I inclusion are not "holders"/"owners" of an approval and they do not need to be established in the EU. However, you will have to get the agreement of an eCA from an EU-27 Member State, EEA country or Switzerland for the evaluation of the application.

BIOCIDAL PRODUCTS

13. My UK-based company is the holder of a product authorisation in an EU-27 Member State or of a Union authorisation under Regulation (EU) No 528/2012. What effect will the withdrawal of the United Kingdom have on our authorisation?

According to Article 3(1)(p) of Regulation (EU) No 528/2012, an authorisation holder must be established within the European Union. By virtue of the EEA Agreement as well as the Mutual Recognition Agreement with Switzerland, an authorisation holder can also be established in Iceland, Liechtenstein, Norway or Switzerland.

You will therefore need to transfer the authorisation to a new holder established within an EU-27 Member State or one of the afore-mentioned countries before the withdrawal date. You can trigger the amendment of your existing authorisation by means of an administrative change requiring prior notification before implementation (see point 3 in section 1 of Title I of the Annex to Commission Implementing Regulation (EU) No 354/2013).

14. Will an EU-27 Member State, as of the withdrawal date, still be able to issue a national authorisation for a biocidal product on the basis of the mutual recognition in sequence of a UK authorisation?

No. This will no longer be possible.

15. My company holds an authorisation issued by an EU-27 Member State prior to the UK withdrawal date on the basis of the mutual recognition of a UK authorisation. Will my authorisation in the EU-27 Member State be affected by the withdrawal of the United Kingdom?

No. The national authorisation granted by each EU-27 Member State will remain valid in that EU-27 Member State.

16. My company needs to apply for a change or renewal of a product authorisation granted in a mutual recognition procedure in which the United Kingdom acted as the reference Member State (refMS). Considering that, as of the withdrawal date, the United Kingdom can no longer act as refMS, can my company choose another competent authority as refMS?

Yes. Both Commission Implementing Regulation (EU) No 354/2013 and Commission Delegated Regulation (EU) No 492/2014 allow the authorisation holder to choose another refMS for the change as well as the renewal procedure.

You will, however, need to submit within the application a written confirmation that the new competent authority agrees to act as refMS.

The services of the European Commission and ECHA have been working in a coordinated manner with EU-27 Members States, EEA countries and Switzerland in order to identify new refMSs for some products of the product-types 8 and 18 for which authorisation holders had to apply for renewal before the end of 2018. The name of those refMSs has been directly communicated to the relevant holders.

17. What is the effect of the withdrawal of the United Kingdom on ongoing applications for mutual recognition in parallel for which the United Kingdom is the reference Member State?

As of the withdrawal date, the United Kingdom can no longer act as reference Member State. This also applies if a withdrawal agreement is concluded since the United Kingdom cannot act as eCA/refMS during the transition period[17].

Therefore, as set out in the Q&A pair No. 2, where the United Kingdom is currently acting as refMS, you are advised to carefully monitor the UK authority's progress and take the relevant actions. For example, if you see indications that the UK authority will not conclude the procedure by the withdrawal date, you may consider changing to another evaluating Member State. In this case, the new refMS will continue handling the relevant tasks referred to in Article 34 of the Regulation (EU) No 528/2012.

The services of the European Commission and ECHA have been working in a coordinated manner with EU-27 Members States, EEA countries and Switzerland in order to identify new refMSs for some on-going applications. The name of those refMSs has been directly communicated to the relevant applicants.

However, where no Member State takes over the role of refMS, there could be different consequences depending on the procedural stage at which the application is by the withdrawal date:

- Where the United Kingdom as refMS has entered, before the withdrawal date, the elements referred to in Article 34(5) of Regulation (EU) No 528/2012 in the Register for Biocidal Products (R4BP) (i.e. the agreed summary of biocidal product characteristics (SPC) and the final assessment report, together with any agreed terms or conditions imposed on the making available on the market or use of the biocidal product), the cMSs may proceed to grant the national product authorisation in accordance with Article 34(6) of Regulation (EU) No 528/2012.

- Where the current refMS (i.e. the United Kingdom) has not entered, before the withdrawal date, in R4BP the above-mentioned elements, the applicant will need to submit a new application for mutual recognition in parallel to a new refMS of his choice and to the relevant cMSs in accordance with Article 34(1) and (2) of Regulation (EU) No 528/2012, respectively.

[17] See Article 123(6) of the draft Withdrawal Agreement, as agreed between the EU and the United Kingdom at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf

18. What is the effect of the withdrawal of the United Kingdom on ongoing applications for Union authorisation for which the United Kingdom is the evaluating Competent Authority?

As of the withdrawal date, the United Kingdom can no longer act as evaluating Competent Authority (eCA). This also applies if a withdrawal agreement is concluded since the United Kingdom cannot act as eCA/refMS during the transition period.[18]

Therefore, where the United Kingdom is currently acting as eCA, you are advised to carefully monitor the UK authority's progress and take the relevant actions. For example, if you see indications that the UK authority will not conclude the procedure by the withdrawal date, you may consider changing to another eCA. In this case, the new eCA will continue handling the relevant tasks referred to in Article 44 of the Regulation (EU) No 528/2012.

The services of the European Commission and ECHA have been working in a coordinated manner with EU-27 Members States, EEA countries and Switzerland in order to identify new eCA for some on-going applications. The name of those eCAs has been directly communicated to the relevant applicants.

However, where no Member State takes over the role of eCA, there could be different consequences depending on the procedural stage at which the application is by the withdrawal date:

- Where the peer review phase referred to in Article 44(3) of Regulation (EU) No 528/2012 has been concluded before the withdrawal date (i.e. ECHA has submitted the relevant opinion to the Commission, which includes the agreed summary of biocidal product characteristics (SPC), the final assessment report and any agreed terms or conditions imposed on the making available on the market or use of the biocidal product), the Commission may proceed to grant the Union authorisation in accordance with Article 44(5) of Regulation (EU) No 528/2012.

- Where the peer review phase referred to in Article 44(3) of Regulation (EU) No 528/2012 has not been concluded before the withdrawal date (i.e. ECHA has not submitted the relevant opinion to the Commission), the applicant will need to submit a new application for Union authorisation in accordance with Article 43(1) of Regulation (EU) No 528/2012.

19. In case an application for mutual recognition in parallel or for Union authorisation is terminated and a new application has to be submitted, how would this affect the legal status of the existing products on the market with regard to Article 89(2) and (3) of Regulation (EU) No 528/2012?

With the submission of the initial application assessed by the United Kingdom the applicant fulfilled his legal obligation laid down in the second subparagraph of Article 89(3) of Regulation (EU) No 528/2012. As a consequence, the existing

[18] See Article 123(6) of the draft Withdrawal Agreement, as agreed between the EU and the United Kingdom at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf

product(s) currently benefit from the provisions in Article 89(2) of Regulation (EU) No 528/2012.

Therefore, the above-mentioned existing product(s) could continue being made available on the market and used in accordance with the provisions of Article 89(2) and (3) of Regulation (EU) No 528/2012 provided that the applicant submits a new application for mutual recognition in parallel (to a new refMS of his choice and to the same Member States concerned in accordance with Article 34(1) and (2) of Regulation (EU) No 528/2012, respectively) or a new application for Union authorisation in accordance with Article 43(1) of Regulation (EU) No 528/2012, before the withdrawal date.

20. My company handles a low risk biocidal product, authorised in the United Kingdom via the simplified procedure. May we notify the placing on the market of that product to EU-27 countries after the withdrawal of the United Kingdom?

No. After the withdrawal date the authorisation granted by the United Kingdom ceases to be valid with regard to Regulation (EU) No 528/2012. As a result, the right of the authorisation holder to make the product available on the market of the notified Member States pursuant to Article 27(1) of the Regulation (EU) No 528/2012 also ceases. Therefore, your company will need to obtain a new authorisation of the product via the simplified procedure from an EU-27 Member State, an EEA country or Switzerland prior to the withdrawal of the United Kingdom.

21. My company notified to a number of Member States under Article 27(1) of Regulation (EU) No 528/2012 a low risk biocidal product authorised in the United Kingdom via the simplified procedure. What effect would the withdrawal of the United Kingdom have on these notifications?

As of the withdrawal date the authorisation granted by the United Kingdom ceases to be valid. Therefore, in accordance with Article 17(1) of Regulation (EU) No 528/2012, the products notified in the other Member States can no longer be made available on the market nor used.

If you want to keep your product on the market of the notified Member States, your company will need to obtain a new authorisation of the product via the simplified procedure, from an EU-27 Member State, an EEA country or Switzerland prior to the withdrawal of the United Kingdom, and then you will have to notify the other relevant Member States, EEA countries or Switzerland.

TREATED ARTICLES

22. The manufacturing site of a treated article that my EU-27-based company is placing on the EU market is located in the United Kingdom. Do we need to be concerned?

Regulation (EU) No 528/2012 does not set any specific requirement regarding the location of the manufacturing site(s) of treated articles, which can be manufactured in third countries. Treated articles manufactured in third countries can be placed on the EU market if they meet the conditions of Regulation (EU) No 528/2012, in particular its Articles 58 and 94. However, shipments to the EU of this treated article will be, as of the withdrawal date, importations, which may

have consequences from the viewpoint of other sectorial legislation (e.g. the 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, EU customs legislation, etc.).

23. What will happen to a treated article that has been manufactured outside the EU and first imported into the United Kingdom before the withdrawal date, and made available on the EU-27 market after the withdrawal date?

Any treated article placed on the EU market is subject to the provisions of Regulation (EU) No 528/2012, in particular Articles 58 and 94. As of the withdrawal date, shipments from the United Kingdom to the EU of this treated article will be importations. If the treated article was placed on the UK market before UK withdrawal, it can be expected to be compliant with the Regulation (EU) No 528/2012 already, and there should be no specific consequences as regards to compliance with Regulation (EU) No 528/2012 (i.e. active substance approved in the EU-27, proper labelling information etc.).

IT ISSUES – REGISTER FOR BIOCIDAL PRODUCTS (R4BP)

24. Will my UK-based company still have an access and possibility to submit a dossier via the R4BP submission tool?

Yes. Companies based in third countries have access to R4PB for certain processes, e.g., active substance approval, notifications and submissions. Upon its withdrawal, the UK will become such a "third country".

25. Will my UK-based company's accounts in R4BP remain accessible as of the withdrawal date?

Yes, you will continue to have access, as non-EU companies to R4BP. UK-based companies will be able to perform the same actions allowed for non-EU companies (e.g. active substance approval submissions).

26. Will ECHA continue to grant my UK-based company access to all the information in its R4BP account after the withdrawal of the United Kingdom?

UK-based companies will still have access to their data in R4BP.

27. Can a UK-based company continue to submit applications via R4BP as of the withdrawal date?

A UK-based company can continue to act as a 'case owner' in R4BP. This means that it will be able, among other things, to submit applications/notifications and monitor the progress of a given case. For instance, UK-based companies can continue to request active substance approvals (or renewals of approval) after the withdrawal of the United Kingdom. However, it is worthwhile recalling here that a biocidal product authorisation can only be granted to an EU-based company.

EUROPEAN COMMISSION
Directorate-General for Health and Food Safety

Brussels, 6 September 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF CLINICAL TRIALS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, sponsors (both academic researchers and pharmaceutical companies) conducting or planning to conduct clinical trials, as well as investigators and other persons involved in the preparation and conduct of clinical trials in the EU are reminded of legal repercussions, which need to considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules on clinical trials, and in particular Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use[3] no longer apply to the United Kingdom. This has, in particular, the following consequences:[4]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 A third country is a country not member of the EU.

3 OJ L 121, 1.5.2001, p. 34.

4 Directive 2001/20/EC is going to be repealed by Regulation (EU) No 536/2014 of the European Parliament and of the Council of 16 April 2014 on clinical trials on medicinal products for human use (OJ L 158, 27.5.2014, p. 1). However, in view of the timelines set in its Article 99, this Regulation is not going to apply before the withdrawal date.

1. SUPPLY OF INVESTIGATIONAL MEDICINAL PRODUCTS

According to Article 13(1) of Directive 2001/20/EC, the import of investigational medicinal products into the EU is subject to the holding of an authorisation. This authorisation is also required if only part of the manufacturing (e.g. packaging or repacking, for example as part of blinding activities) is performed in the third country. Article 13(2) of Directive 2001/20/EC requires the holder of this authorisation to have permanently and continuously at his disposal the services of at least one qualified person located in the EU. The qualified person is responsible for ensuring that each production batch of an investigational medicinal product intended to be used in a clinical trial has been manufactured and checked in accordance with the standards of good manufacturing practices at least equivalent to those laid down in the EU and that each production batch has been checked in accordance the clinical trial authorisation (Article 13(3)(b) of Directive 2001/20/EC). Regarding comparator investigational medicinal products which are authorised in a third country, the qualified person is responsible for ensuring, subject to exceptions, that each production batch has undergone all relevant analyses, tests or checks necessary to confirm its quality (Article 13(3)(c) of Directive 2001/20/EC). Retesting (analytical control) in the EU is not mandatory if already carried out in the third country (Article 11(2) second subparagraph of Commission Directive 2003/94/EC[5]).

As of the withdrawal date, these rules will apply to investigational medicinal products imported from the United Kingdom to the EU.

2. ESTABLISHMENT REQUIREMENTS FOR THE SPONSOR OR THE LEGAL REPRESENTATIVE

According to Article 19 of Directive 2001/20/EC, the sponsor of a clinical trial or a legal representative must be established in the EU. As of the withdrawal date, a sponsor established in the United Kingdom and conducting a clinical trial in the EU-27 has to ensure that a sponsor or a legal representative is established in the EU-27. The change of the sponsor or of the sponsor's legal representative is typically a substantial amendment,[6] which requires notification to the competent authority/information of the Ethics Committee in accordance with the procedure set out in Article 10(a) of Directive 2001/20/EC.

3. SUBMISSION OF CLINICAL TRIAL INFORMATION

Provisions of EU law relating to clinical trials[7] provide for the submission of certain clinical trial information to the EU clinical trials database EudraCT.

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5 Commission Directive 2003/94/EC of 8 October 2003 laying down the principles and guidelines of good manufacturing practice in respect of medicinal products for human use and investigational medicinal products for human use, OJ L 262, 14.10.2003, p. 22.

6 See point 123(a) of the Communication from the Commission — Detailed guidance on the request to the competent authorities for authorisation of a clinical trial on a medicinal product for human use, the notification of substantial amendments and the declaration of the end of the trial (CT-1) (OJ, 30.3.2010, p. 1).

7 Cf. Articles 41 and 46 of Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use (OJ L 378, 27.12.2006, p. 1),

Regarding protocol-related information, as of the withdrawal date, UK-specific trial information will no longer have to be submitted to EudraCT, except when the trial is part of an agreed Paediatric Investigation Plan and the United Kingdom is the only country in which the protocol has been submitted.

Regarding result-related information, results of clinical trials conducted in the United Kingdom and completed before the withdrawal date must be submitted to EudraCT if the reporting of these results is due before the withdrawal date. Results of clinical trials conducted only in the United Kingdom and results of multi-country trials where the United Kingdom was the only EU/EEA Member state where the clinical trial was conducted have to be submitted to EudraCT, also after the withdrawal date, if this is required for non-EU/EEA studies (i.e. if the trial is part of an agreed Paediatric Investigation Plan or falls in the scope of Article 46 of Regulation (EC) No 1901/2006).

The websites of the Commission on clinical trials (https://ec.europa.eu/health/human-use/clinical-trials_en) provide general information. These pages will be updated with further information, where necessary.

European Commission
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Article 57 of Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (OJ L 136, 30.4.2004, p. 1), and the implementation guidelines published in EudraLex, Volume 10 (https://ec.europa.eu/health/documents/eudralex/vol-10_en).

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Brussels, 23 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON GENETICALLY MODIFIED FOOD AND FEED AND THE DELIBERATE RELEASE OF GENETICALLY MODIFIED ORGANISMS INTO THE ENVIRONMENT

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date')[2]. The United Kingdom will then become a 'third country'.

In this regard, business operators involved in the activities falling under the scope of Regulation (EC) No 1829/2003 on genetically modified food and feed and Directive 2001/18/EC on the deliberate release of genetically modified organisms into the environment are reminded that preparing for the withdrawal is therefore not just a matter for European and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, authorisation holders and applicants are reminded of certain legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of genetically modified food and feed and the deliberate release of genetically modified organisms into the environment no longer apply in the United Kingdom. This has, in particular, the following consequences in the different areas of genetically modified food and feed and the deliberate release of genetically modified organisms:

- under Regulation (EC) No 1829/2003, authorisation holders or their representatives must be established in the European Union (or in one of the contracting states of the European Economic Area);

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

- applications for the placing on the market of genetically-modified organisms under Directive 2001/18/EC must designate a person responsible for the placing on the market which must be established in the European Union (or in one of the contracting states of the European Economic Area).

Business operators should consider that applications and notifications pursuant to Regulation (EC) No 1829/2003 and Directive 2001/18/EC can only be submitted to the competent authorities of EU Member States (or of contracting states of the European Economic Area). In particular, business operators should carefully take into account the expected timelines before the submission of any new application in which the United Kingdom would be acting as rapporteur Member State under Directive 2001/18/EC.

The website of the Commission on food safety provides general information concerning genetically modified food and feed and the deliberate release of genetically modified organisms into the environment. If necessary, Questions & Answers (Q&A) in relation to Regulation (EC) No 1829/2003 and Directive 2001/18/EC will be made available.

European Commission
Directorate-General Health and Food Safety

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH
AND FOOD SAFETY

EUROPEAN MEDICINES AGENCY
SCIENCE MEDICINES HEALTH

Brussels, 1st of February 2019
REV2 - replaces the Notice to stakeholders (REV1) published on 23 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES FOR MEDICINAL PRODUCTS FOR HUMAN USE AND VETERINARY MEDICINAL PRODUCTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[3] as of the withdrawal date, the EU rules in the field of medicinal products for human and veterinary use no longer apply to the United Kingdom. This has, in particular, the following consequences in the different areas of EU law on medicinal products:

- EU law requires that marketing authorisation holders are established in the EU (or EEA);

[1] In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[2] A third country is a country not member of the EU.

[3] Cf. Part four of the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, as agreed at negotiator's level on 14 November 2018 (https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132_en)

- Some activities must be performed in the EU (or EEA), related for example to pharmacovigilance, batch release etc.

Marketing authorisation holders may be required to adapt processes and to consider changes to the terms of the marketing authorisation in order to ensure its continuous validity and exploitation, once the United Kingdom has left the Union.

Marketing authorisation holders will need to act sufficiently in advance to avoid any impact on the continuous supply of medicines for human and veterinary use within the European Union.

In particular, the Commission and the European Medicines Agency expect marketing authorisation holders to prepare and proactively screen authorisations they hold for the need for any changes. The necessary transfer or variation requests will need to be submitted in due time, considering the procedural timelines foreseen in the regulatory framework.

The Commission and the European Medicines Agency have provided detailed Q&As, which are continuously updated.

The websites of the Commission (https://ec.europa.eu/health/human-use_en) and of the European Medicines Agency (https://www.ema.europa.eu/en/about-us/united-kingdoms-withdrawal-european-union-brexit) provide additional information. For products authorised in decentralised or mutual recognition procedures, additional information will be provided through the websites of the Coordination Groups. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Health and Food Safety

European Medicines Agency

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

EUROPEAN MEDICINES AGENCY
SCIENCE MEDICINES HEALTH

Rev 04, 1 February 2019

Questions and Answers related to the United Kingdom's withdrawal from the European Union with regard to the medicinal products for human and veterinary use within the framework of the Centralised Procedure

This list of Questions and Answers (Q&As) complements the "*Notice to stakeholders - withdrawal of the United Kingdom and EU rules for medicinal products for human use and veterinary medicinal products*".[1]

(NEW) This list of Q&As addresses a situation where the United Kingdom becomes a third country on 30 March 2019 ("the withdrawal date") without a withdrawal agreement and hence without a transition period provided for in the draft Withdrawal Agreement.

This list has been drafted jointly by the Directorate-General for Health and Food Safety of the European Commission and EMA. This version is an update of the initial list of Q&As published on 31 May 2017 as subsequently amended and it replaces all previous versions of Q&As. The new text introduced in this version of Q&As "Rev 04" is indicated by the word "**NEW**". The Q&As may be further updated and complemented in the future. The advice below applies equally to medicinal products for human or veterinary use, unless otherwise indicated in the heading to the question.

1. What if I am a marketing authorisation holder established in the UK?

According to Article 2 of Regulation (EC) No 726/2004 the marketing authorisation holder must be established in the Union. Through the EEA Agreement this is extended to include also Norway, Iceland and Liechtenstein.

For centrally authorised medicinal products the marketing authorisation holder will therefore normally need to transfer its marketing authorisation to a holder established in the Union (EEA) (see Commission Regulation (EC) 2141/96 and EMA Q&A on transfer). This means that the addressee of the marketing authorisation decision changes to the new addressee. The transfer of the marketing authorisation must be fully completed and implemented by the marketing authorisation holder before 30 March 2019.

[1] https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#sante

1a. What if I am an applicant established in the UK?

Any marketing authorisation applicant must be established in the Union (EEA). Therefore, for marketing authorisation applications (MAAs) that are expected to receive a Commission Decision after 29 March 2019, applicants established in the UK will need to change to a non-UK applicant established in the Union (EEA) before 30 March 2019. It is strongly recommended that applicants established in the UK consider such change, where possible, in advance of the submission of the MAA.

2. What if I am an orphan designation holder established in the UK? (*for medicines for human use*)

According to Article 2 of Regulation (EC) No 141/2000 the sponsor of an orphan medicinal product designation must be established in the Union (EEA).

For designated orphan medicinal products the holder will therefore need to transfer its designation to a holder established in the Union (EEA) (see Checklist for sponsors applying for the transfer of Orphan Medicinal Product (OMP) designation and the corresponding template) or it will need to change its place of establishment to a Member State of the Union (or EEA) and submit the corresponding documentation through a change of name and/or address of the orphan designation holder procedure provided the legal entity remains the same (see Guideline on the format and content of applications for designation as orphan medicinal products and on the transfer of designations from one sponsor to another, 27.03.2014).

3. What if I am a UK company with a MUMS (Minor Use Minor Species/limited market) status for my product? (*for veterinary medicines*)

According to Article 79 of Regulation (EC) No 726/2004, the Management Board of the European Medicines Agency should, in the case of veterinary products which have limited markets, or in the case of veterinary medicinal products intended for diseases with a regional distribution, adopt the necessary measures to provide assistance to companies at the time of submission of their applications. This activity supports applicants for marketing authorisations, which in accordance with the general rules have to be established in the Union (EEA) (see Question 1a above).

If the sponsor/applicant is established in the UK, the MUMS incentives provided on the basis of Article 79 of Regulation (EC) No 726/2004 would no longer be applicable with effect from the date of the UK's withdrawal from the Union, as a sponsor/applicant established within a third country cannot seek and receive MUMS/limited market classification in the Union (EEA). However, MUMS/limited market classification is connected to the product/indication and therefore transferable together with the product.

To formally acknowledge the transfer, the EMA requires a letter from the original sponsor/applicant officially informing the EMA of the transfer of the classification product and the MUMS/limited market classification from the original sponsor/applicant to a sponsor/ applicant established in the Union (EEA). This letter should state the document reference number of the MUMS outcome letter confirming the MUMS classification.

For already authorised MUMS/limited market veterinary medicinal products it is important to note that a transfer of marketing authorisation does not include a transfer of an MUMS/limited designation as this is subject to a different procedure. Therefore, for those authorised MUMS/limited market veterinary medicinal products the marketing authorisation holder needs to transfer the marketing authorisation (see: "What if I am a marketing authorisation holder established in the UK (H + V)?") and separately the MUMS/ limited market classification (see above). The five year period of validity for MUMS/limited market classification is not affected by the transfer of classification.

4. What if my Qualified Person for Pharmacovigilance (QPPV) resides and carries out his/her tasks in the UK?

According to Article 8 of Directive 2001/83/EC and Article 74 of Directive 2001/82/EC, the qualified person responsible for pharmacovigilance must reside and carry out his/her tasks in a Member State of the Union (EEA). The QPPV will therefore need to change his/her place of residence and carry out his/her tasks in the Union (EEA) or a new QPPV residing and carrying out his/her tasks in the Union (EEA) will need to be appointed. Changes in the QPPV, including contact details (telephone, and fax numbers, postal address and email address) may, for medicinal products for human use, be updated through the Article 57 database only (without the need for a variation) (see Variation Guideline C.I.8). Regarding medicinal products for veterinary use the changes should be updated through a variation (see Variation Guideline (2013/C 223/01), classification C.I.9).

5. What if my Pharmacovigilance System Master File is located in the UK (PSMF)? (*for medicines for human use*)

According to Commission Implementing Regulation (EU) No 520/2012, the PSMF must be located within the Union (EEA). The supervisory authority for pharmacovigilance is the competent authority of the Member State in which the pharmacovigilance system master file is located. The marketing authorisation holder will therefore need to change the location of the PSMF to a Member State within the Union (EEA). Changes to the location of the PSMF (street, city, postcode, country) may be updated through the Article 57 database only (without the need for a variation) (see Variation Guideline (2013/ C 223/01), classification C.I.8).

6. What if my manufacturing site of the active substance is located in the UK?

As of the date of the withdrawal of the UK from the Union, active substances manufactured in the UK will be considered imported active substances.

Directive 2001/83/EC and Directive 2001/82/EC state that manufacturing authorisation holders are obliged to use, as starting materials, only active substances that have been manufactured in accordance with the detailed guidelines on GMP for starting materials.

In addition, pursuant to Article 46b(2) of Directive 2001/83/EC, active substances for medicinal products for human use shall only be imported in the Union (EEA) if, inter alia, the active substances are accompanied by a written confirmation from the competent authority of the exporting third country which, as regards the plant manufacturing the exported active substance, confirms that the standards of good manufacturing practice and control of the plant are equivalent to those in the Union (EEA).

7. What if my manufacturing site of the finished product is located in the UK?

As of the date of the withdrawal of the UK from the Union, medicinal products manufactured in the UK will be considered imported medicinal products.

The competent authorities of the Union (EEA) shall ensure that the **import** of medicinal products into their territory is subject to an authorisation in accordance with Article 40(3) of Directive 2001/83/EC and Article 44(3) Of Directive 2001/82/EC. The authorisation is granted when a number of conditions, as defined in Articles 41 and 42 of Directive 2001/83/EC and Articles 45 and 46 of Directive 2001/82/EC, are fulfilled (e.g. availability of a qualified person within the Union (EEA), GMP inspection).

For centrally authorised medicinal products the marketing authorisation holder will therefore need to specify an authorised importer established in the Union (EEA) and submit the corresponding variation (see Variation Guideline (2013/ C 223/01), classification B.II.b.2).

In addition, in accordance with Article 51(1)(b) of Directive 2001/83/EC and Article 55(1)(b) of Directive 2001/82/EC the marketing authorisation holder will need to specify a site of **batch control** in the Union (EEA) where each production batch can undergo upon importation a full qualitative analysis, a quantitative analysis of at least all the active substances and all the other

tests or checks necessary to ensure the quality of medicinal products in accordance with the requirements of the marketing authorisation.

For centrally authorised medicinal products the marketing authorisation holder will need to change the location of its current UK based site of batch control to a location established in the Union (EEA) and submit the corresponding variation (see Variation Guideline (2013/ C 223/01), classification B.II.b.2).

8. What if my batch release site is located in the UK?

In accordance with Article 51(1) of Directive 2001/83/EC and Article 55(1) of Directive 2001/82/EC, the qualified person of the manufacturing and importation authorisation holder is responsible to certify that each batch of medicinal product intended to be placed on the EEA market was manufactured in accordance with the Union GMP requirements and the marketing authorisation. The batch release site has to be located in the Union (EEA).

For centrally authorised medicinal products the marketing authorisation holder will therefore need to transfer its current UK based site of **batch release** to a location established in the Union (EEA) and submit the corresponding variation (see Variation Guideline (2013/ C 223/01), classification B.II.b.2).

9. I am a UK based SME, would I still have access to financial and administrative assistance in accordance with Commission Regulation (EC) No 2049/2005 (the 'SME Regulation')?

In order to be eligible for financial and administrative assistance, companies must be established in the Union (EEA) and meet the definition of an SME.

As of the date of the withdrawal of the UK from the Union, the guidance for non-EEA based companies shall apply also to UK based companies:

- to apply for SME status once the company has established a legal entity in the Union (EEA). For proof of establishment, the SME office requires a copy of the certificate of incorporation in the commercial register of the companies. In such cases, the SME declaration can be submitted in the name of the newly established subsidiary with details of the parent company to be declared.
- to indirectly benefit from the SME incentives through an Union (EEA) established SME regulatory consultancy. SME regulatory consultancies may seek to benefit from the provisions of the SME Regulation on behalf of non-EEA based clients, only if both they and the client meet the SME criteria (i.e. fall below headcount and financial thresholds). In this case, both the regulatory consultancy and the non-EEA based company should submit SME declarations. If successful, the regulatory consultancy would receive an SME notification and the non-EEA based company would be listed in an annex to that notification as an SME client company. It is not possible for an SME regulatory consultancy to be considered eligible if they are acting on behalf of non-SME clients, as this would be contrary to the objectives of the SME Regulation.

Further information is available on the EMA website (link) and in the SME User Guide (link).

10. How does UK's withdrawal from the Union affect my generic or hybrid marketing authorisation or application based on a reference product authorised in the UK?

A generic or hybrid application in accordance with Article 10 of Directive 2001/83/EC or Article 13 of Directive 2001/82/EC refers to information that is contained in the dossier of a reference medicinal product (RefMP) that is or has been authorised in the Union (EEA).[2]

Generic/hybrid marketing authorisations granted before 30 March 2019 referring to a RefMP authorised by the UK (UK RefMP) remain valid.

Generic/hybrid applications for which marketing authorisations will be granted after 29 March 2019 should refer to a RefMP that is or has been authorised in a EU-27 Member State or a contracting state of the EEA.[3] [4] Applicants are advised to take this into account already at the time of submission of the application.

11. Can medicinal products used in bioequivalence studies be sourced in the UK?

According to Article 10(1) of Directive 2001/83/EC or Article 13(1) of Directive 2001/82/EC the applicant can submit an abridged application if he can demonstrate that the medicinal product is a generic of a reference medicinal product which is or has been authorised in the Union or EEA for not less than eight years. According to Article 10(2)(b) of Directive 2001/83/EC and Article 13(2)(b) of Directive 2001/82/EC generic medicinal product means a medicinal product which has the same qualitative and quantitative composition in active substance and the same pharmaceutical form as the reference medicinal product, and whose bioequivalence with the reference medicinal product has been demonstrated by appropriate bioavailability studies.[5]

(NEW) Pivotal studies (bioequivalence, in vitro dissolution tests or therapeutic equivalence studies, as appropriate) that have been conducted with a medicinal product sourced in the UK can be used in generic/hybrid marketing authorisation applications only if the marketing authorisation for that application will be granted before 30 March 2019.[6]

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[2] See also the electronic application form for marketing authorisation applications, section 1.4.2.2 or 1.4.3.2

[3] This will also facilitate management of generic/hybrid product's life cycle in the post-authorisation phase, considering for example the need to implement changes to the product information of the EEA RefMP also for the generic/hybrid products.

[4] The (exceptional) situation where a RefMP is or has been authorised in the UK only is addressed in the EU's "Position paper on Goods placed on the Market under Union law before the withdrawal date" (footnote 7): https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en .

[5] See also the electronic application form for marketing authorisation applications, section 1.4.2.3 or 1.4.3.3

[6] In exceptional cases where bioequivalence studies are intended for use in new applications which will be submitted before 30 March 2019 and if these bioequivalence studies have been already completed the applicants may consider contacting the competent authority to discuss the particular circumstances of their application in order to avoid unnecessary repetition of studies in humans or animals. **(NEW)** In cases where bioequivalence studies have been conducted with a reference product sourced in the UK before 30 March 2019 and when this product is the same as an EU27 reference product, authorised either via the centralised procedure or mutual recognition or decentralised procedure based on the same dossier, the applicants may consider contacting the competent authority to discuss the particular circumstances of their application also in cases when the application cannot be submitted before 30 March 2019, in order to avoid unnecessary repetition of studies in humans or animals.

12. How does UK's withdrawal from the Union affect my biosimilar marketing authorisation or biosimilar marketing authorisation application? (*for medicines for human use*)

The considerations described under questions 10 and 11 regarding the choice of RefMP are also applicable to biosimilars.

The Guideline on similar biological medicinal products should however be consulted for the available scientific guidance when considering using a non-EEA authorised comparator (i.e. a non-EEA authorised version of the reference medicinal product) in the development of a biosimilar. Batches of the RefMP released by the UK after 29 March 2019 will not be considered as a Union (EEA) authorised comparator.

13. How does UK's withdrawal from the Union affect the Global Marketing Authorisation (GMA) concept?

The concept of 'global marketing authorisation within the meaning of Article 6(1) of Directive 2001/83/EC and Article 5(1) of Directive 2001/82/EC covers the initial marketing authorisation and all subsequent developments of the original medicinal product, irrespective of their authorisation procedures, namely variation or grant of a separate MA[7] to the same MAH. The GMA is accompanied only by a single regulatory data protection period[8] which applies both to data relating to the original medicinal product[9] and to data presented for any subsequent developments. That regulatory data protection period begins with the grant of the initial marketing authorisation in the Union (EEA).

Marketing authorisations granted before 30 March 2019 by the UK can still be considered as the initial marketing authorisation.

14. How does UK's withdrawal from the Union affect well-established use applications?

According to Article 10a of Directive 2001/83/EC and Article 13a of Directive 2001/82/EC it is possible to replace results of the pre-clinical and clinical trials by detailed references to published scientific literature if it can be demonstrated that the active substances of a medicinal product in the claimed therapeutic indication and (for veterinary products) target species have been in well-established use within the Union (EEA) for at least ten years, with recognised efficacy and an acceptable level of safety. In this regard, the provisions of Annex I of Directive 2001/83/EC or Annex I of Directive 2001/82/EC shall apply.

Data sourced from the UK, while the UK was a Member State of the Union, can be taken into account to demonstrate that the active substances of a medicinal product in the claimed therapeutic indication and (for veterinary products) target species have been in well-established use within the Union (EEA) for at least ten years, with recognised efficacy and an acceptable level of safety.

[7] C-629/15P, para. 72.
[8] C-629/15P, para. 65.
[9] See also the electronic application form for marketing authorisation applications, section 1.4.2.1 or 1.4.3.1

15. How does UK's withdrawal from the Union affect traditional herbal medicinal products (traditional-use registration)? (*for medicines for human use*)

The traditional-use registration procedure allows the registration of herbal medicinal products without requiring particulars and documents on tests and trials on safety and efficacy, provided that there is sufficient evidence of the medicinal use of the product throughout a period of at least 30 years, including at least 15 years in the Union (EEA).

Data sourced from the UK, while the UK was a Member State of the Union, can be taken into account to demonstrate that the product has been in medicinal use throughout a period of at least 15 years within the Union (EEA).

16. How does UK's withdrawal from the Union affect the prevalence for orphan drug designation? (*for medicines for human use*)

For applications for orphan designations or for its maintenance submitted after 29 March 2019, patients in the UK should no longer be taken into account in the calculation of the prevalence of the disease in order to meet the requirements for orphan drug designation as set out in Regulation (EC) No 141/2000 i.e. a condition affecting no more than 5 in 10 thousand persons in the Union (EEA).

17. How does UK's withdrawal from the Union affect the local representative located in the UK, if also nominated for Member States other than the UK?

The local representative mentioned in the product information should be located in the Union (EEA). Therefore, any local representative located in the UK and nominated for Member States other than the UK will have to be changed to a local representative located in the Union (EEA).

The corresponding amendments to labelling and package leaflet must be fully completed and implemented by the marketing authorisation holder before 30 March 2019, either as part of a regulatory procedure affecting the annexes (e.g. variation, renewal), or through a notification under an Article 61(3) of Directive 2001/83/EC or (for veterinary products) through a Type IAIN variation (see Variation Guideline (2013/ C 223/01), classification C.II.6.a).

17a. How does UK's withdrawal from the Union affect the local representative for UK mentioned in the product information?

After 29 March 2019, the mentioning of the local representative for UK in the product information will become obsolete.

The deletion of the local representative for UK in the product information will need to be incorporated as part of a future regulatory procedure affecting the annexes (e.g. variation, renewal) and the earliest opportunity after 29 March 2019 should be used.

18. How does UK's withdrawal from the Union affect the sunset clause?

According to Article 24(4) to (6) of Directive 2001/83/EC, Article 28(4) to (6) of Directive 2001/82/EC and Articles 14(4) to (6) and 39(4) to (6) of Regulation (EC) No 726/2004 any authorisation which within three years of its granting is not followed by the actual placing on the market of the authorised product in the authorising Member State or on the Union market will cease to be valid. When an authorised product previously placed on the market in the authorising Member State or in the Union is no longer actually present on the market for a period of three consecutive years, the authorisation for that product will cease to be valid.

In case a centrally authorised medicinal product has only been marketed in the UK, the placing on the UK market, while UK was a Member State of the Union, will be taken into account to determine the applicability of the sunset clause for the medicinal product concerned. In this respect, if after the UK withdrawal from the Union, the medicinal product is not placed on any other market of the

remaining Member States, the three year period for the sunset clause will start running from the last date the medicinal product was placed on the UK market, while UK was a Member State of the Union.

19. What if my product is subject to Official Control Authority Batch Release (OCABR) and is currently tested by a UK Official Medicines Control Laboratory (OMCL)?

According to Article 114 of Directive 2001/83/EC and Article 82 of Directive 2001/82/EC, Member States may require the marketing authorisation holder of a human immunological medicinal product or a medicinal product derived from human blood or plasma or immunological veterinary medicinal product to submit samples from each batch of the bulk and/or the medicinal product for examination by an Official Medicines Control Laboratory (OMCL) or a laboratory that a Member State has designated for that purpose before the release on the market. This is referred to as Official Control Authority Batch Release (OCABR).

According to the EU Administrative Procedure for Official Control Authority Batch Release[10], prior to marketing in the Union (EEA), batches of medicinal products subject to independent testing should obtain an Official Control Authority Batch Release Certificate common to all Member States. This shall demonstrate that the batch of medicinal product has been examined and tested by an OMCL within the Union (EEA) in accordance with this procedure and with Official Control Authority Batch Release guidelines pertaining to the medicinal product and that it is in compliance with the approved specifications laid down in the relevant monographs of the European Pharmacopoeia (Ph. Eur.) and in the relevant marketing authorisation.

For products placed on the market as of the withdrawal date,[11] OCABR cannot be carried out by an OMCL located in the UK. OCABR will need to be carried out by an OMCL located within the Union (EEA) or by a country officially recognised by the Union for mutual recognition of batch release. The marketing authorisation holder will therefore need to identify a OMCL located in the Union (EEA) for official batch release or an officially recognised partner (as stated above) for official batch release. A list of the OMCLs that may be in a position to provide the Union OCABR certificates for different products is available to manufacturers from the European Directorate for the Quality of Medicines & Healthcare (EDQM) on request at batchrelease@edqm.eu.

19a. Can I, as of the withdrawal date, import a medicinal product into the Union (EEA) on the basis of a certificate issued before the withdrawal date by the UK OMCL? (NEW)

No. As of the withdrawal date, the mutual recognition of Official Control Authority Batch Release (OCABR) stops.

However, the Official Medicines Control Laboratory (OMCL) of an EU27 or EEA Member State may take account of the certificate issued by the UK OMCL when issuing a certificate.

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[10] Guideline for the administrative procedure to be followed by the competent OMCL authorities for the implementation of Directive 2001/83/EC Article 114 as amended by Directive 2004/27/EC, available at https://www.edqm.eu/en/batch-release-human-biologicals-vaccines-blood-and-plasma-derivatives

[11] For goods placed on the EU market *before* the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods placed on the market under Union law before the withdrawal date are available here: https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en. The concept of placing on the market refers to each individual product, not to a type of product, irrespectively of whether it was manufactured as an individual unit or in series

19b. Does the change of the marketing authorisation holder due to the UK's withdrawal impact on the validity of the Official Control Authority Batch Release issued by a Official Medicines Control Laboratory (OMCL) of an EU27 or EEA Member State? (NEW)

No. The Official Control Authority Batch Release (OCABR) of the OMCL of an EU27 or EEA Member State remains valid even if the marketing authorisation holder changes.

20. What if my product is subject to Official Batch Protocol Review (OBPR) and evaluation is done by a UK Competent Authority? (*for veterinary medicines*)

According to Article 81 of Directive 2001/82/EC Member States may require the marketing authorisation holder for immunological veterinary medicinal products to submit to the competent authorities copies of all the control reports signed by the qualified person in accordance with Article 55 of Directive 2001/82/EC in order to verify that control tests were carried out in accordance with the methods laid down for the purposes of marketing authorisation. This is referred to as an 'Official Batch Protocol Review' (OBPR). OBPR may be carried out by a Competent Authority within the Union (EEA) or in a country officially recognised by the Union for mutual recognition of batch release (e.g. Switzerland).

For products placed on the market as of the withdrawal date,[12] OBPR cannot be carried out by a UK Competent Authority. The marketing authorisation holder will therefore need to identify another Competent Authority located in the Union (EEA) or an officially recognised partner (as stated above) for official batch protocol review.

21. How does UK's withdrawal from the Union affect the status of inspection outcomes by the UK competent authority?

It is expected that findings of inspections, in particular to determine compliance with good manufacturing practice, good clinical practice and pharmacovigilance obligations, conducted by the UK competent authority before 30 March 2019 are implemented by the inspected entities in accordance with the applicable legislation, in particular Directive 2003/94/EC, Commission Delegated Regulation (EU) No 1252/2014 and Directive 91/412/EEC with regard to good manufacturing practice, Directive 2001/20/EC and Commission Directive 2005/28/EC with regard to good clinical practice and Regulation (EC) No 726/2004, Directive 2001/83/EC and Commission Implementing Regulation (EU) No 520/2012 with regard to pharmacovigilance obligations.

22. How does UK's withdrawal from the Union affect CE certification of medical devices by UK notified bodies?

This issue is addressed in the **Commission Notice on the withdrawal of the United Kingdom and EU rules in the field of industrial products** that also covers medical devices.

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[12] For goods placed on the EU market *before* the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods placed on the market under Union law before the withdrawal date are available here: https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en. The concept of placing on the market refers to each individual product, not to a type of product, irrespectively of whether it was manufactured as an individual unit or in series

23. How does UK's withdrawal from the Union impact the CHMP scientific opinion for ancillary medicinal substances in medical devices requested by UK notified bodies?

According to Article 1(4) of Directive 93/42/EEC where a device incorporates, as an integral part, a substance which, if used separately, may be considered to be a medicinal product within the meaning of Article 1 of Directive 2001/83/EC and which is liable to act upon the body with action ancillary to that of the device, that device shall be assessed and authorized in accordance with Directive 93/42/EEC. In accordance with Annex I of Directive 93/42/EEC for a new medical device, the notified body acts as the applicant in an initial consultation procedure with EMA concerning the scientific opinion on the ancillary medicinal substances incorporated in the medical devices.

Union product legislation requires Notified Bodies to be established in a Member State and be designated by a Member State notifying authority.

From the withdrawal date, UK notified bodies will lose their status as the Union notified bodies. They will no longer be able to be an applicant in an initial consultation procedure with EMA and EMA will not be able to issue a scientific opinion to them as notified bodies of a third country.

24. How does UK's withdrawal from the Union impact on the possibility to market a multi-country pack which includes the UK?

Multi-country packs are medicinal products that are labelled to allow their placing on the market in several Member States with the same packaging. This possibility is subject to the requirements set out in Directive 2001/83/EC in Title V or Directive 2001/82/EC in Title V and requires that the summary of product characteristics is the same in all the markets concerned.

(NEW) Articles 57 and 62 of Directive 2001/83/EC and Articles 58 and 63 of Directive 2001/82/EC allow Member States to require inclusion of certain additional labelling information in a restricted area (the so-called "blue box") provided that all the strict conditions for the application of Article 57 or Article 62 of Directive 2001/83/EC and Article 58 or Article 63 of Directive 2001/82/EC are fulfilled.

In applying these provisions, multi-country packs with the UK market are only possible if

- the product information is exactly the same in the United Kingdom as in the EU27 (EEA); and

- the Member State has allowed additional information labelled in the "blue box". This additional information must be limited to certain administrative information.

In any event the product labelling and package leaflet must be fully in line with the summary of product characteristics as authorised in the Union (EEA).

25. What if Qualified Person's for Pharmacovigilance (QPPV) back-up arrangements are in the UK?

According to Article 2 of Commission Implementing Regulation (EU) No 520/2012 back-up arrangements shall apply in the absence of the QPPV. As the tasks of QPPV need to be carried in a Member State of the Union (EEA), the back-up arrangements for cases of absence of the QPPV, which replace such tasks, also need to be performed in the Union (EEA).

Where a MAH relies on the services of a deputy QPPV as part of its back-up arrangements in the absence of the QPPV, those arrangements should ensure that the deputy QPPV is established and performs his/her tasks in the Union (EEA).

For veterinary medicines, reference is made to the EMA Brexit practical guidance.

26. Who will take over supervision of the manufacturing sites of medicinal products in third countries (including UK after the Withdrawal date) previously supervised by UK authorities and when will the next GMP inspection be conducted? (NEW)

According to Articles 18 and 43 of Regulation (EC) No 726/2004, in case of medicinal products imported from third countries the supervisory authorities shall be the competent authorities of the Member State or Member States that granted the authorisation provided for in Article 40(3) of Directive 2001/83/EC or Article 44(3) of Directive 2001/82/EC respectively to the importer of the concerned medicinal product.

As of the withdrawal date, UK authorities will no longer undertake the role of a supervisory authority.

The new Union supervisory authority responsible for supervision of manufacturing sites located in UK and third country sites previously inspected by UK will decide, using a risk-based approach, when an inspection of the site(s) concerned will be required, in order to confirm or re-confirm GMP compliance.

27. Can I continue to use after 29 March 2019 a manufacturing site for which the Union GMP certificate has been issued by UK authorities?(NEW)

All medicinal products for human and veterinary use manufactured or imported into the Union (EEA), including medicinal products intended for export, are to be manufactured in accordance with the principles and guidelines of good manufacturing practice.[13] [14] A certificate of good manufacturing practice ("GMP certificate") is issued to a manufacturer if the outcome of the inspection shows that the manufacturer complies with the principles and guidelines of good manufacturing practice as provided for by the Union legislation.[15] [16]

While the Union legislation does not require a Union GMP certificate issued by a Member State for issuing a marketing authorisation[17] or importation of a medicinal product,[18] in practice GMP certificates issued by the Union competent authorities are used to confirm the Union GMP compliance in regulatory submissions (e.g. marketing authorisation applications) and for imports from third countries. This means that GMP compliance of manufacturing sites in third countries may also be confirmed through other means, based on a risk-based approach (e.g. based on information on GMP compliance from third country regulatory authorities). GMP certificates issued by the UK competent authority before 30 March 2019 should therefore be considered as such information on GMP compliance from the third country regulatory authority.

28. Shall the information about the unique identifier uploaded to the UK repository between 9 February 2019 and 29 March 2019 be transferred to another repository in the Union? (for medicines for human use)(NEW)

Article 33(1) of Commission Delegated Regulation (EU) 2016/161 requires marketing authorisation holders to ensure that unique identifiers and related information are uploaded to the Union repository system before a product is released for sale or distribution. Any information uploaded to the Union hub or a national repository should be transferred and stored in all national or

[13] Commission Directive 2003/94/EC, Recital (1).
[14] Commission Directive 91/412/EEC.
[15] Directive 2001/83/EC, Article 111(5).
[16] Directive 2001/82/EC, Article 80(5).
[17] Article 8(3)(ha) of Directive 2001/83/EC.
[18] Article 51(1)(b) of Directive 2001/83/EC, Article 55(1)(b) of Directive 2001/82/EC.

supranational repositories serving the territory of Member State(s) where the product is intended to be placed on market. Therefore, the information on products released on the market before the withdrawal date will be already present in the national repositories where the product is intended to be placed on the market and there is no need to transfer information from the UK repository.

29. Can activities related to safety features take place in the UK? (for medicines for human use)(NEW)

The manufacturer placing the safety features, as referred to in Articles 14 and 15 of the Commission Delegated Regulation (EU) 2016/161, is the manufacturer actually affixing the unique identifier and anti-tampering device on the packaging. There is no requirement that such a manufacturer has to be located in the Union (EEA). However, if a manufacturer is not in the Union (EEA), then the obligation to ensure that Articles 14 and 15 of the Delegated Regulation (EU) 2016/161 are complied with lies with the importer.

The Qualified Person at the batch release site in the Union (EEA) will have to ensure that the safety features have been affixed to the packaging (Article 51(1) of Directive 2001/83/EC). This task may be delegated to appropriately trained personnel or third parties, as set out in Annex 16 to the EU GMP guidelines (section 1.7). For general GMP requirements on outsourced activities, refer to Chapter 7 of the EU GMP guidelines.

The responsibility for ensuring that the information is uploaded in the repositories system lies with the MAH (or the person responsible for placing on the market medicinal products which are parallel distributed/parallel imported). Delegated Regulation (EU) 2016/161 does not prohibit MAHs from subcontracting or delegating data-upload tasks to on-boarding partners (OBPs) acting on their behalf. However, the infrastructures, hardware and software used for data upload must be physically located in the EEA (see question 7.19 in Questions and Answers on Safety Features for Medicinal Products for Human Use).

30. Can parallel trade of medicinal products sourced in the UK and supplied to the EU(27) or EEA continue as of the withdrawal date?(NEW)

Parallel trade of medicinal products in the internal market is possible in particular because of (i) the rules in the internal market for the exhaustion of trade mark rights; and (ii) the fact that the summary of product characteristics and the labelling of medicinal products are – apart from issues of language used – identical.

As of the withdrawal date, the rules for exhaustion of trade mark rights in the Union (EEA) no longer apply in respect of products placed on the UK market. Moreover, the terms of the marketing authorisation will over time differ.[19]

Hence, parallel trade of medicines sourced in the UK is in practice no longer possible as of the withdrawal date.

However, from the point of view of Union pharmaceutical law, medicines that have been sourced in the UK, and brought into the territory of the EU27 (EEA) before the withdrawal date can continue to circulate on the EU27 (EEA) market if they are authorised.

[19] To this may add national rules on parallel trade of medicinal products with third countries.

31. Does, as of the withdrawal date, Article 76(4) of Directive 2001/83/EC and Article 57(1)(o) of Regulation (EC) No 726/2004 continue to apply to parallel trade of medicinal products sourced in the UK?(NEW)

Article 76(4) of Directive 2001/83/EC and Article 57(1)(o) of Regulation (EC) No 726/2004 address the distribution of a centrally authorised medicinal product from one Member State to another by a pharmaceutical company independent of the marketing-authorisation holder ("parallel distribution"; in the context of this legislation, this notion is to be distinguished from "parallel imports" of nationally authorised products). It does not cover export or import of the product from third countries. Moreover, as of the withdrawal date, central marketing authorisations cease to be valid in the UK. As of the withdrawal date, Article 76(4) of Directive 2001/83/EC and Article 57(1)(o) of Regulation (EC) No 726/2004 no longer apply to medicinal products sourced in the UK for the purpose of parallel distribution in EU27 (EEA). However, it is recalled that, as set out in the previous Q&A pair, parallel trade of medicinal products sourced in the United Kingdom will anyhow no longer be possible as of the withdrawal date.

32. Will parallel distribution notices under Article 76(4) of Directive 2001/83/EC and Article 57(1)(o) of Regulation (EC) No 726/2004 with UK as the Member State of destination remain valid as of the withdrawal date?(NEW)

Article 76(4) of Directive 2001/83/EC and Article 57(1)(o) of Regulation (EC) No 726/2004 address the sourcing of centrally authorised medicinal products in Member States and their distribution in other Member States (to be distinguished from parallel imports of nationally authorised products). It does not cover export or import of the product from third countries. Moreover, as of the withdrawal date, central marketing authorisations cease to be valid in the UK. Therefore, as of the withdrawal date, notices with the UK as the only destination country will become obsolete, whereas, notices with several destination countries will remain valid with respect to EU27 destination countries.

33. Will parallel distribution notices under Article 76(4) of Directive 2001/83/EC and Article 57(1)(o) of Regulation (EC) No 726/2004 for a parallel distributor located in UK remain valid as of the withdrawal date?(NEW)

Article 76(4) of Directive 2001/83/EC and Article 57(1)(o) of Regulation (EC) No 726/2004 address the sourcing of centrally authorised medicinal products in Member States and their distribution in other Member States (to be distinguished from parallel imports of nationally authorised products). It does not cover export or import of the product from third countries. Moreover, as of the withdrawal date, central marketing authorisations cease to be valid in the UK. Therefore, as of the withdrawal date, notices to distributors in the UK will become obsolete.

Please note that the transfer of parallel distribution notices to another entity is not foreseen and a change of address is possible only in case the legal entity remains the same.

34. Will parallel distribution notices under Article 76(4) of Directive 2001/83/EC and Article 57(1)(o) of Regulation (EC) No 726/2004 with a re-packaging site located in UK remain valid as of the withdrawal date?(NEW)

Article 76(4) of Directive 2001/83/EC and Article 57(1)(o) of Regulation (EC) No 726/2004 address the sourcing of centrally authorised medicinal products in Member States and their distribution in other Member States (to be distinguished from parallel imports of nationally authorised products). It does not cover export or import of the product from third countries. Therefore as of the withdrawal date the UK sites will have to have been removed, in order for these notices to remain valid as of the withdrawal date.

35. What will change regarding reporting requirements into EudraVigilance of Individual Case Safety Reports (ICSRs) from the UK? (for medicines for human use) (NEW)

According to Article 107 of Directive 2001/83/EC **suspected serious adverse reactions** have to be reported no matter if they occurred in the Union (EEA) or in third countries.

Suspected non-serious adverse reactions occurring in third countries do not have to be reported in the Union (EEA). Thus, as of the withdrawal date

- non-serious adverse reactions that have occurred in the UK before the withdrawal date have to be reported;

- it is no longer mandatory to submit to EudraVigilance reports of suspected non-serious adverse reactions that have occurred in the UK as of the withdrawal date.

For individual cases originating from UK and submitted to EudraVigilance before the withdrawal date, when a follow-up information is received by the marketing authorisation holder as of the withdrawal date, it should be continued to be submitted to EudraVigilance when third country reporting criteria apply.

As of the withdrawal date, UK authorities will no longer have access to EudraVigilance. Marketing authorisation holders are therefore reminded that they will need to submit into EudraViglance information that they might receive from UK authorities regarding cases occurring in the UK, in line with the reporting requirements for non-EU/EEA cases.

36. What will be the impact of UK's withdrawal on referral procedures? (NEW)

Referral procedures ongoing on the withdrawal date will continue, irrespective of the Member State that triggered the referral, with the exception of MRP/DCP referral procedures on applications with UK as the reference member state[20].

As of the withdrawal date, UK products will formally no longer be part of Union referral procedures. As a consequence, as of the withdrawal date assessment reports will no longer be shared with marketing authorisation holders/applicants for UK products that were previously concerned by the referral procedure. Nevertheless, all data submitted in the referral procedure, including data submitted on UK products before the withdrawal date, will be taken into account during the assessment.

A scientific opinion issued as of the withdrawal date, as well as Commission Decisions adopted as of the withdrawal date, will not include UK products. The Commission Decision will only be addressed to the EU27 (EEA) Member States.

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[20] As stated in question 1b of the Questions and Answers published by the Coordination Group for Mutual Recognition and Decentralised Procedures - Human and Questions and Answers published by the Coordination Group for Mutual Recognition and Decentralised Procedures – Veterinary http://www.hma.eu/fileadmin/dateien/Veterinary_medicines/CMDv_Website/Brexit/QAs_UK_withdrawal_from_EU_national_authorised_medicinal_products.pdf, with regards to MRP/DCP procedures with UK as the reference member state "For new marketing authorisation applications, if the procedure is not completed before 30 March 2019 (i.e. agreement of the concerned Member States [..] or decision of the Commission [..]) the procedure is stopped and the applicant needs to submit a new application to a new Reference Member State.". Therefore MRP/DCP referral procedures on applications with UK as the reference member state will not continue after 29 March 2019.

The fees for referrals are determined at the start date of procedure. For medicinal products for human use the fees for Pharmacovigilance referrals are calculated based on products authorised in the Union (EEA) (as recorded in 'Article 57 database') at that time. Until the withdrawal date this includes UK nationally approved products.

37. How do I handle, as of the withdrawal date, data from UK in the Periodic Safety Update Reports? (NEW)

Periodic safety update reports (PSURs) should present cumulative and interval summaries of global safety data obtained from various sources worldwide. Relevant safety data obtained from UK sources as of the withdrawal date should therefore continue to be included in PSURs as per usual requirements for third country data.

For the calculation of exposure from marketing experience by region, patients exposed in the UK until the withdrawal date should be included in the EU/EEA estimate. Thereafter, UK patient exposure should be considered as part of the non-EU/EEA regions.

European Commission
Directorate-General for Health and Food Safety

European Medicines Agency

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Brussels, 27 February 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON ANIMAL HEALTH AND WELFARE AND PUBLIC HEALTH RELATED TO THE MOVEMENT OF LIVE ANIMALS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, operators involved in trade in live animals[4] are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[5] [6]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU public and animal health rules in the field

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 This notice does not address non-commercial movements of pet animals (Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals, OJ L 178, 28.6.2013, p. 1).

5 For live animals the movement of which is ongoing on the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods placed on the market, including live animals the movement of which has started before the withdrawal date are available here: https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en.

6 Since the EU veterinary *acquis* is very detailed, this notice can only set out the essential rules. The website of the Commission on imports of live animals (https://ec.europa.eu/food/animals/live_animals_en) provides for general information concerning EU animal health legislation for imported live animals.

of intra-Union trade in live animals[7] [8] [9] [10] [11], the placing on the market of aquaculture animals,[12] the controls carried out on such movements[13] and EU law on animal transport[14] no longer apply to the United Kingdom.

This notice is also relevant for the movement of live animals and hatching eggs from and to the Channel Islands and the Isle of Man.[15]

1. ENTRY OF LIVE ANIMALS INTO THE EU

Public and animal health:

As of the withdrawal date, the entry of live animals[16] [17]from the United Kingdom into the EU-27 is prohibited for public and animal health reasons, unless:

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7 Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine (OJ 121, 29.7.1964, p. 1977/64).

8 Council Directive 91/68/EEC of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals (OJ L 46, 19.2.1991, p. 19).

9 Council Directive 2009/156/EC of 30 November 2009 on animal health conditions governing the movement and importation from third countries of equidae (OJ L 192, 23.7.2010, p. 1).

10 Council Directive 2009/158/EC of 30 November 2009 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs (OJ L 343, 22.12.2009, p. 74).

11 Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC (OJ L 268, 14.9.1992, p. 54).

12 Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals OJ L 328, 24.11.2006, p. 14).

13 Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra- Community trade in certain live animals and products with a view to the completion of the internal market (OJ L 224, 18.8.1990, p. 29).

14 Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations (OJ L 3, 5.1.2005, p. 1).

15 Regulation (EEC) No 706/73 of the Council of 12 March 1973 concerning the Community arrangements applicable to the Channel Islands and the Isle of Man for trade in agricultural products (OJ L 68, 15.3.1973. p. 1).

16 Cattle, pigs, sheep and goats, equidae, poultry and hatching eggs, aquaculture animals, bees and bumble bees, other "ungulates" listed in Directive 2004/68/EC. Dogs, cats and ferrets in commercial movements.

17 For other animals than those in footnote 16, including certain animals consigned to and from bodies, institutes or centres approved in accordance with Annex C to Directive 92/65/EEC, national animal health conditions may apply to the entry from third countries of animals (Article 18(2) of Directive 92/65/EEC). However, the EU rules on border checks apply.

- The United Kingdom is "listed" as a third country by the Commission for animal health[18] purposes. For the "listing", Directive 2004/68/EC as well as specific legislation applies;
- The specific animal health requirements and veterinary certification conditions set out with the "listing" for the species or categories of animals from the United Kingdom are fulfilled;
- The United Kingdom is "listed" by the Commission as a third country having a residue control plan approved in accordance with Directive 96/23/EC[19] for the animals and animal products specified therein. For the "listing" Chapter VI of Directive 96/23/EC applies.

The "Tripartite Agreement" concluded in accordance with Article 6 of Directive 2009/156/EC between France, Ireland and the United Kingdom no longer applies to the United Kingdom as of the withdrawal date.

As of the withdrawal date, these substantial requirements are controlled upon entry into the EU-27 by applying mandatory border checks, including veterinary checks, at the first point of entry into the Union territory:

- Live animals can only enter the EU-27 through "border inspection posts"[20] approved for the species and categories of animals concerned;
- Each consignment has to be accompanied by a duly completed health certificate in compliance with EU animal health import legislation;[21]
- Each consignment undergoes documentary, identity and physical checks;[22]
- Live animals are only allowed to enter the EU-27 with the official document (Common Veterinary Entry Document) attesting that the border checks were satisfactorily carried out in compliance with the applicable animal and, public health rules.

These conditions also apply to the entry into the EU-27, as of the withdrawal date, of live animals from the United Kingdom for the purpose of **transit from the United Kingdom to another third country or to another part of the United Kingdom**.[23] In addition, the

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[18] Council Directive 2004/68/EC of 26 April 2004 laying down animal health rules for the importation into and transit through the Community of certain live ungulate animals (OJ L 139, 30.4.2004, p. 321). For equidae, poultry, aquaculture animals, and other animals see footnotes above.

[19] Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products (OJ L 125, 23.5.1996, p. 10).

[20] Commission Decision 2009/821/EC of 28 September 2009 drawing up a list of approved border inspection posts, laying down certain rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in Traces (OJ L 296, 12.11.2009, p. 1).

[21] Article 4 of Council Directive 91/496/EEC.

[22] Article 4 of Council Directive 91/496/EEC.

[23] For equidae, specific transit rules are laid down in Commission Decision 2010/57/EU of 3 February 2010 laying down health guarantees for the transit of equidae being transported through the territories listed in Annex I to Council Directive 97/78/EC (OJ L 32, 4.2.2010, p. 9).

consignment has to pass through border inspection posts both at entry into and exit from the Union, including the respective notifications in the EU Trade Control and Expert System (TRACES).[24] [25]

In case of **transit from the EU-27 through the United Kingdom to the EU-27**, live animals have to be accompanied by an intra-Union trade certificate and pass through a border inspection post at entry into the EU-27, including the respective notifications in TRACES.[26] [27]

Animal welfare:

Live animals admitted to enter the EU-27 will have to be transported according to all the animal welfare rules laid down in Council Regulation (EC) No 1/2005[28], and will be submitted to checks at border inspection posts by the competent authorities as laid down in Article 21 of that Regulation.[29]

2. EXIT OF LIVE ANIMALS FROM THE EU

Public and animal health:

As of the withdrawal date, the exit of live animals[30] from a Member State to the United Kingdom through the territory of another Member State is subject to the following conditions:

- The transport operation must ensure that in accordance with Decision 93/444/EEC[31] the consignment remains under customs supervision up to the point of exit[32] from Union territory;

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[24] Commission Decision 2003/623/EC of 19 August 2003 concerning the development of an integrated computerised veterinary system known as Traces (OJ L 216, 28.8.2003, p. 58).

[25] Article 9 of Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries (OJ L 268, 24.9.1991, p. 56).

[26] In addition, for the transit of certain ungulates, Article 12 of Commission Regulation (EC) No 206/2010 applies.

[27] In addition, the rules on exit of live animals apply, see section 2 of this Notice.

[28] Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations (OJ L 3, 5.1.2005, p. 1).

[29] See also the Commission Notice to stakeholders withdrawal of the United Kingdom and EU rules for authorisations and certificates for transporters of live animals, drivers and attendants (https://ec.europa.eu/food/animals/welfare/practice/transport_en).

[30] Cattle, pigs, sheep, goats, equidae, poultry and hatching eggs, dogs, cats and ferrets, bees and bumble bees and aquaculture animals.

[31] Commission Decision 93/444/EEC of 2 July 1993 on detailed rules governing intra-Community trade in certain live animals and products intended for exportation to third countries (OJ L 208, 19.8.1993, p. 34). For the exit of live animals to a third country without passing through another Member State, no specific EU rules apply.

- Each consignment of animals is accompanied by veterinary documents or veterinary certificates meeting relevant veterinary requirements of the United Kingdom and health certificates for intra-Union trade, which contain, where necessary and applicable, the additional guarantees provided for by Union legislation for animals intended for slaughter;
- A message must be addressed in TRACES to the place of destination, which is the border inspection post of exit or the local authority of the place in which the point of exit is situated, and to the central authorities of the place of destination and of the Member State(s) of transit.

Animal welfare:

The transport of live animals exiting the EU to the United Kingdom will have to comply with Council Regulation (EC) No 1/2005 up to the final place of destination and will be submitted to checks at the exit point by the competent authorities as laid down in Article 21 of that Regulation.

Private parties are advised that the specific conditions regarding the movement and importation of live animals are regularly updated. The website of the Commission on imports of live animals (https://ec.europa.eu/food/animals/live_animals_en) provides for general information concerning EU animal health legislation for imported live animals. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Health and Food Safety

[32] In accordance with Article 1(2)(a) of Decision 93/444/EEC "exit point" means any place situated in close proximity to the external frontier of one of the territories listed in Annex I to Council Directive 90/675/EEC (5) offering customs supervision facilities.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL HEALTH AND FOOD SAFETY

Brussels,

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF DIRECTIVE 2009/54/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 18 JUNE 2009 ON THE EXPLOITATION AND MARKETING OF NATURAL MINERAL WATERS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, food business operators in the field of the exploitation and marketing of natural mineral waters are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of the exploitation and marketing of natural mineral waters apply to the United Kingdom as third country. This has, in particular, the following consequences in the different areas of the natural mineral water legislation:

According to Article 1(1) and (2) and Article 2 of Directive 2009/54/EC, waters may only be marketed as natural mineral waters in the European Union if they comply with the following:

- where waters are extracted from the ground of a Member State, the responsible authority of that Member State has recognised the waters as natural mineral waters in accordance with Directive 2009/54/EC

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

- where waters are extracted from the ground of a third country, the responsible authority of a Member State has recognised the waters as natural mineral waters in accordance with Directive 2009/54/EC.

It follows that, from the withdrawal date:

- Waters currently extracted from the ground of, and recognised by the United Kingdom as natural mineral waters shall be considered as extracted from the ground of a third country and should no longer be authorised for import into the European Union, unless they are recognised as such by the responsible authority of another Member State.

- Waters currently extracted from the ground of a third country and recognised as natural mineral waters by the responsible authority of the United Kingdom should no longer be authorised for import into the European Union, unless they are recognised as such by the responsible authority of another Member State.

The website of the Commission on Health and Food Safety provides general information concerning the rules on the exploitation and marketing of natural mineral waters. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Health and Food Safety

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Brussels, 21 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON PLANT HEALTH

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, operators involved in production and trade of plants, plant products and other objects addressed in the EU plant health legislation ("other objects") are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU plant health legislation in the field of intra-Union trade in plants, plant products and other objects no longer apply to the United Kingdom.[4] The legal consequences presented below stem from EU plant health legislation with regard to plants, plant products or other objects placed on the EU-27 market[5] as from the withdrawal date and coming from a third country (i.e. imported).[6]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 This notice does not address the EU rules on plant reproductive material (which is addressed in the *Notice to stakeholders on the withdrawal of the United Kingdom and EU rules in the field of marketing of seeds and other plant reproductive material* of 23 January 2018) nor plant variety rights (which is addressed in the *Notice to stakeholders on the withdrawal of the United Kingdom and EU rules in the field of Union plant variety rights* of 23 January 2018).

5 For goods, including plants, plant products and other objects placed on the EU market *before* the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods, including plants, placed on the market under Union law before the withdrawal date are available here:

This notice is also relevant for plants, plant products or other objects coming from the Channel Islands and the Isle of Man.[7]

1. INTRODUCTION OF PLANTS, PLANT PRODUCTS OR OTHER OBJECTS INTO THE EU

According to Article 4 of Council Directive 2000/29/EC[8], the introduction into the Union of certain plants, plant products and other objects listed in Parts A and B of Annex III to Directive 2000/29/EC into the Union is prohibited.

According to Article 5 of Directive 2000/29/EC, certain plants, plant products and other objects listed in Part A of Annex IV to Directive 2000/29/EC may only be introduced into the Union if they comply with the special requirements set out in that Part.

As of the withdrawal date, the introduction of plants, plant products and other objects from the United Kingdom into the EU-27 will be governed by this Directive. This is in particular relevant for the introduction into the EU of wood packaging material: such wood packaging, whether or not actually in use for the transport of objects of all kinds, has to be compliant with a treatment and mark as specified in the FAO International Standard for Phytosanitary measures No 15 ('ISPM 15').[9]

2. OFFICIAL CONTROLS FOR IMPORTS OF PLANTS, PLANT PRODUCTS OR OTHER OBJECTS

According to Article 13 of Directive 2000/29/EC, the plants, plant products or other objects listed in Part B of Annex V to that Directive, introduced into the EU shall be accompanied by a phytosanitary certificate. According to Article 13a, each of those commodities shall be subject to a meticulous documentary, identity and physical check. Article 13a also lays down that for certain plant categories reduced

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https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en. Please note that the essential principles of the EU's position on goods build on one single definition of "placing on the market" ("first making available on the market").

6 This notice does not address the EU rules for small quantities of plants and plant products accompanying travellers.

7 Regulation (EEC) No 706/73 of the Council of 12 March 1973 concerning the Community arrangements applicable to the Channel Islands and the Isle of Man for trade in agricultural products (OJ L 68, 15.3.1973. p. 1).

8 Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1). On 14 December 2019 this Directive will be replaced by Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants (OJ L 317, 23.11.2016, p. 4).

9 Section I, Part A of Annex IV to Directive 2000/29/EC.

frequencies of identity and physical checks can be applied as set out in Commission Regulation (EC) No 1756/2004.[10]

After 14 December 2019, those products shall be subject to the import controls of Articles 44 to 64 of Regulation (EU) 2017/625 on official controls[11], which will replace the respective rules of Directive 2000/29/EC.

Private parties are advised that the specific conditions regarding the movement and importation of plants, plant products and other objects subject to the plant health provisions of Union law are regularly updated. The respective website of the Commission (https://ec.europa.eu/food/plant/plant_health_biosecurity_en) provides for general information concerning EU plant health legislation for imported plants, plant products or other objects. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Health and Food Safety

[10] Commission Regulation (EC) No 1756/2004 of 11 October 2004 specifying the detailed conditions for the evidence required and the criteria for the type and level of the reduction of the plant health checks of certain plants, plant products or other objects listed in Part B of Annex V to Council Directive 2000/29/EC, OJ L 313, 12.10.2004, p. 6.

[11] 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, OJ L 095 7.4.2017, p. 1.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL HEALTH AND FOOD SAFETY

Brussels, 23 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON PLANT PROTECTION PRODUCTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for European and national authorities, but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, business operators involved in the activities falling under the scope of Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market and Regulation (EC) No 396/2005 on maximum residue levels of pesticides (MRLs), including applicants for an active substance or plant protection product, are reminded of certain legal repercussions stemming from currently applicable rules of Union law, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of plant protection products and pesticides no longer apply to the United Kingdom. In particular, business operators should consider that, according to Union law, third countries cannot act as rapporteur Member States, zonal rapporteur Member States or evaluating Member States for MRLs[4].

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 With the exception of contracting states of the European Economic Area ("EEA").

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111
Office: F 101 4/066

Concerning **submissions of new applications**, business operators should take into account the expected timelines of different regulatory procedures in which the United Kingdom would be acting as, for example, rapporteur Member State, zonal rapporteur Member State or evaluating Member State for MRLs. Taking account of the aforementioned uncertainties as well as the regulatory framework, business operators should consider taking the relevant actions. For example, where there is a risk that those procedures are not concluded by the date when the United Kingdom will leave the Union, applicants may choose by preference another Member State to carry out the evaluation or assessment.

Concerning those **on-going procedures** for which the United Kingdom is currently carrying out an assessment or evaluation, business operators should carefully monitor their progress. Where there are clear indications that the procedure will not be concluded by the withdrawal date, taking account of the uncertainties as well as the regulatory framework, business operators should consider taking the necessary actions. For example, a change of rapporteur or evaluating Member State may be required.

The Commission services is working with Members States and EEA countries to establish a coordinated way forward for the timely communication, agreement and technical transfer of the file in case change is needed. This will be particularly relevant for the review programme of existing active substances, for which the United Kingdom was assigned by law (Commission Implementing Regulation (EU) 686/2012) as rapporteur and co-rapporteur Member State.

The website of the Commission on approval of active substances (http://ec.europa.eu/food/plant/pesticides/approval_active_substances_en) provides general information concerning the approval of active substances as well as a series of Questions & Answers (Q&A) in relation to Regulation (EC) No 1107/2009 and Regulation (EC) No 396/2005. These pages will be updated with further information and relevant Q&A pairs, where necessary.

European Commission
Directorate-General Health and Food Safety

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Brussels, 18 February 2019
REV2 – Replaces the Q&A document (REV1) published on 2 October 2018

QUESTIONS AND ANSWERS RELATED TO THE UNITED KINGDOM'S WITHDRAWAL FROM THE EUROPEAN UNION WITH REGARD TO PLANT PROTECTION PRODUCTS AND PESTICIDES RESIDUES

On 23 January 2018, the European Commission services published a "*Notice to stakeholders – withdrawal of the United Kingdom and EU rules on plant protection products*".[1]

This list of Questions and Answers (Q&A pairs) which has been drafted by the European Commission services, aims at giving further guidance on the basis of the above-mentioned notice to stakeholders. The list of Q&A pairs will be further updated and complemented when necessary. The new text introduced in this version of Q&As "Rev2" is indicated by the word "**NEW**".

This list of Q&As addresses a situation where the United Kingdom becomes a third country on 30 March 2019 ("the withdrawal date") without a withdrawal agreement and hence without a transition period provided for in the draft Withdrawal Agreement.[2]

GENERAL

1. What if my company is established in the United Kingdom and it is the holder of a PPP authorisation in a Member State?

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[3] ("the PPP Regulation") does not require applicants for authorisations for plant protection products ("PPP") and authorisation holders to be established in the European Union. Therefore, no action needs to be taken in this respect.

2. What if my company is an applicant for approval of a substance, or for the setting/modification/deletion/review of a MRL and it is established in the United Kingdom?

[1] This notice replaced the notice of 26 September 2017.

[2] Cf. Part four of the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, as agreed at negotiator's level on 14 November 2018 (https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132_en)

[3] OJ L 309, 24.11.2009, p. 1.

The PPP Regulation and Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC[4] ("the MRL Regulation") do not require applicants for approval of active substances and applicants for MRLs to be established in the European Union. Therefore, no action needs to be taken in this respect.

3. What if the manufacturing site of my active substance is located in the United Kingdom?

The PPP Regulation and MRL Regulation do not set any specific requirement regarding the location of the manufacturing site(s) of active substances, which can be manufactured in third countries. Therefore, no action needs to be taken in this respect. However, after the withdrawal date the substance will be imported from a third country and will be subject to any applicable EU law in this respect (e.g. administrative formalities linked to the introduction into the customs territory of the EU).

4. What if the manufacturing site of my PPP product is located in the United Kingdom?

The PPP Regulation and MRL Regulation does not set any specific requirement regarding the location of the manufacturing site(s) of PPP products, which can be manufactured in third countries. Therefore, no action needs to be taken in this respect by authorisation holders. However, PPP will be imported from a third country and will be subject to any applicable EU law in this respect (e.g. administrative formalities linked to the introduction into the customs territory of the EU).

NEW APPLICATIONS

5. What if my company is considering submitting a new application for an active substance for which the United Kingdom could be the rapporteur Member State (RMS)? What if my company wishes to apply for an amendment to the approval of an active substance under Article 7 of the PPP Regulation for which the United Kingdom has been the RMS?

Until the withdrawal date, the United Kingdom remains a member of the European Union, with all the rights and obligations that derive from its membership, including the principle of sincere cooperation which states that the Union and all its Member States shall assist each other in carrying out the Treaty. Thus, the United Kingdom can still be chosen as RMS. However, as of the withdrawal date, the United Kingdom can no longer act as a RMS. This also applies if a withdrawal agreement is concluded: during the transition period, the United Kingdom cannot act as RMS.[5] Applicants should take this into account when choosing the RMS: Choosing the United Kingdom means that the file would need to be handed over to another Member State taking up the role as RMS before the withdrawal date.

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4 OJ L 70, 16.3.2005, p.1.

5 See Article 128(6) of the draft Withdrawal Agreement.

6. What if my company is considering submitting a new application for a PPP or for MRLs for which the United Kingdom could be the zonal rapporteur Member State (zRMS) or the Evaluating Member State (EMS)?

Until the withdrawal date, the United Kingdom remains a member of the European Union, with all the rights and obligations that derive from its membership, including the principle of sincere cooperation which states that the Union and all its Member States shall assist each other in carrying out the Treaty. Thus, the United Kingdom can still be chosen as zRMS or as Evaluating Member State for MRLs.

However, as of the withdrawal date, the United Kingdom can no longer act as a zRMS or as EMS. This also applies if a withdrawal agreement is concluded: during the transition period, the United Kingdom cannot act as zRMS or Evaluating Member State for MRLs.[6] Applicants should take this into account.

In the context of an application for authorisation or renewal of authorisation of a PPP, the evaluation by the zRMS is considered completed, when the assessment pursuant to Article 36(1) or Article 43 of the PPP Regulation is made available to the concerned Member States within the same zone.

In the context of an application for MRLs, the evaluation by the EMS is considered completed, when the evaluation report is made available to the Commission pursuant to Article 9(1) of the MRL Regulation.

APPLICATIONS FOR RENEWAL OF THE APPROVAL OF AN ACTIVE SUBSTANCE

7. What if the United Kingdom was designated as RMS or Co-RMS under Commission Implementing Regulation (EU) No 686/2012 and my company needs to submit an application for renewal of the approval of an active substance?

Until the withdrawal date, the United Kingdom remains a member of the European Union, with all the rights and obligations that derive from membership, including the principle of sincere cooperation which states that the Union and all its Member States shall assist each other in carrying out the Treaty. Thus, the United Kingdom can still act as RMS or Co-RMS under the renewal procedure.

However, as of the withdrawal date, the United Kingdom can no longer act as a RMS or Co-RMS. This also applies if a withdrawal agreement is concluded: during the transition period, the United Kingdom cannot act as RMS or Co-RMS.[7] An amendment to Commission Implementing Regulation (EU) No 686/2012 has been adopted by the Commission to this effect.[8]

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6 See Article 128(6) of the draft Withdrawal Agreement.

7 See Article 128(6) of the draft Withdrawal Agreement.

8 Commission Regulation (EU) 2018/155 of 31 January 2018 amending Implementing Regulation (EU) No 686/2012 allocating to Member States, for the purposes of the renewal procedure, the evaluation of active substances, OJ L 29, 1.2.2018, p. 8.

ON-GOING ASSESSMENTS

8. What if the United Kingdom is RMS for the assessment of the application for approval of my substance or application for an amendment to the approval, or for the assessment of confirmatory information (Article 13(3) of the PPP Regulation), and my dossier is already submitted to the United Kingdom? What will happen with the on-going evaluation of my application for approval?

As of the withdrawal date, the United Kingdom can no longer act as a RMS. This also applies if a withdrawal agreement is concluded: during the transition period, the United Kingdom cannot act as RMS.[9] While the draft Withdrawal Agreement provides for the transfer of files and documents relating to ongoing procedures,[10] stakeholders are strongly advised to carefully monitor progress of on-going assessments. The Commission services are currently working with Member States and EEA countries in order to establish a coordinated way forward for a timely communication and technical transfer of the files concerned.

9. What if the United Kingdom was designated as RMS under Commission Implementing Regulation (EU) No 686/2012[11] and my supplementary dossier is already submitted to the United Kingdom? What will happen with the ongoing evaluation of my application for the renewal of approval?

As of the withdrawal date, the United Kingdom can no longer act as a RMS. This also applies if a withdrawal agreement is concluded: during the transition period, the United Kingdom cannot act as RMS.[12] The draft withdrawal agreement provides for the transfer of files and documents relating to ongoing procedures. **(NEW)** The Commission has adopted an amendment to Commission Implementing Regulation (EU) No 686/2012 to allocate the role of RMS to an EU-27 Member State.[13] Commission services continue to assess whether additional re-allocations are necessary.

10. Is the new RMS entitled to require fees or charges and if so, to what extent? (NEW)

The new RMS who has agreed to take over files from the UK is entitled, in accordance with Article 74 of the PPP Regulation and Article 42 of the MRL Regulation to recover costs of work carried out under these Regulations. The conditions set out in Article 74 of the PPP Regulation and Article 42 of the MRL Regulation apply.

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9 See Article 128(6) of the draft Withdrawal Agreement.

10 See Article 44 of the draft Withdrawal Agreement.

11 Commission Implementing Regulation (EU) No 686/2012 of 26 July 2012 allocating to Member States, for the purposes of the renewal procedure, the evaluation of the active substances whose approval expires by 31 December 2018 at the latest, OJ L 200, 27.7.2012, p. 5.

12 See Article 128(6) of the draft Withdrawal Agreement.

13 Commission Implementing Regulation (EU) 2019/150 of 30 January 2019 amending Implementing Regulation (EU) No 686/2012 as regards the rapporteur Member State for the evaluation of the following active substances contained in plant protection products: deltamethrin, diflufenican, epoxiconazole, fluoxastrobin, prothioconazole and tebuconazole, OJ L 27, 31.1.2019, p. 23.

11. What if the United Kingdom is zRMS for the assessment of the application of an authorisation or the renewal of an authorisation for a PPP, or EMS for an application for a MRL? What will happen with the ongoing evaluation of my application for PPP authorisation or the MRL?

As of the withdrawal date, the United Kingdom can no longer act as a zRMS or EMS. This also applies if a withdrawal agreement is concluded: during the transition period, the United Kingdom cannot act as zRMS or EMS.[14] Concerning procedures that are ongoing on the withdrawal date and for which the United Kingdom is acting as zRMS for the assessment of the application of an authorisation or the renewal of an authorisation for a PPP, or EMS for an application for a MRL, the zRMS or EMS will need to be changed.

For evaluations of PPP applications ongoing on the withdrawal date, the draft withdrawal agreement provides for the transfer of files and documents relating to ongoing procedures.[15] The Commission Services work with Members States and the Zonal Steering Committees in order to establish a coordinated way forward for a timely communication and technical transfer of the file. Please see also Question 11 for more details regarding the granting of authorisations by other Member States for plant protection product assessed by the United Kingdom as zRMS.

For ongoing MRL applications, the new EMS will carry on with the evaluation in accordance with Article 8 of the MRL Regulation or, where that evaluation is considered completed by the United Kingdom before the withdrawal date (see Question 6), perform the assessment of supplementary information potentially requested by the European Food Safety Authority (EFSA) in accordance with Article 11(2) of the MRL Regulation.

CONCLUDED ASSESSMENTS

12. What if an EU Member State wants to make a decision on an authorisation for a PPP based on an assessment concluded by the United Kingdom before the withdrawal date?

Until the withdrawal date the United Kingdom may act as zRMS, whereas the other Member States act as Member States concerned (cMS).[16]. The zonal assessment process is a collaborative process involving also scrutiny of the application by all the cMS and established in a harmonised format (Article 36(1) of the PPP Regulation).

When the assessment by the United Kingdom is completed, i.e. made available to the other Member States in accordance with Article 36(1) of the PPP Regulation and the United Kingdom has issued its national authorisation before the withdrawal date, other Member States will have to decide, within 120 days, on

[14] See Article 128(6) of the draft Withdrawal Agreement.

[15] See Article 44 of the draft Withdrawal Agreement.

[16] This system applies for the first authorisation of a plant protection product in one zone or, through the reference of Article 43(3) of the PPP Regulation, also for applications for renewals.

the application in accordance with Article 37(4) and 36(2) of the PPP Regulation on the basis of the assessment carried out and completed by the United Kingdom.

However, when the assessment by the United Kingdom is completed, i.e. made available to the other Member States in accordance with Article 36(1) of the PPP Regulation, but the United Kingdom has not issued its national authorisation prior to the withdrawal date, there is no authorisation granted prior to the withdrawal date, which (in addition to the assessment) is needed to trigger the 120-days deadline for the authorisation decision by a cMS (Article 37(4) of the PPP Regulation). Therefore, the authorisation that would have been issued by the original zRMS has to be substituted in that case by one of the cMS. This cMS will issue such authorisation on the basis of the assessment concluded by the United Kingdom. Business operators finding themselves in this situation will have to approach one or more of the cMS with the relevant request – cMS could then agree appropriate arrangements in the respective Zonal Steering Committee.

MUTUAL RECOGNITION OF AUTHORISATIONS

13. What if my company wishes to obtain after the United Kingdom withdrawal an authorisation in an EU Member State of the same zone or another zone by mutual recognition in accordance with Article 40 of the PPP Regulation on the basis of an authorisation that was granted by the United Kingdom?

As of the withdrawal date, an EU-27 Member State of the same zone or another zone (in accordance with Article 40(1)(b) and (c) of the PPP Regulation) can no longer recognise an authorisation which was issued by the United Kingdom. This also applies if a withdrawal agreement is concluded: during the transition period, the United Kingdom cannot be a reference Member State in the mutual recognition procedure.[17] Business operators will need to (re-)apply for an authorisation based on an existing product authorisation in another EU-27 Member State.

However, where an authorisation by an EU-27 Member State has been granted under the mutual recognition procedure before the withdrawal date, this authorisation is not affected by the withdrawal of the United Kingdom.

PARALLEL TRADE PERMITS

14. Are parallel trade permits (Article 52 of the PPP Regulation) granted by an EU-27 Member State valid as of the withdrawal date for plant protection products of which the United Kingdom was the Member State of origin? (NEW)

Article 52 of the PPP Regulation provides for issuance of parallel trade permits for parallel trade between Member States. As of the withdrawal date, a parallel trade permit issued by an EU-27 Member State prior to the withdrawal date for a plant protection product of which the United Kingdom was the Member State of origin is no longer valid[18]. Plant protection products benefiting from such parallel trade permit can therefore no longer be placed on the market in the particular

[17] See Article 128(6) of the draft Withdrawal Agreement.

[18] A condition for granting a parallel trade permit under Article 52 is that it is granted to a product that is identical to a plant protection product authorised in an EU Member State (Member State of Origin).

Member State. This does not affect the possibility to use, in the EU-27 products purchased prior to the withdrawal date.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL HEALTH AND FOOD SAFETY

Brussels, XXX

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF MARKETING OF SEEDS AND OTHER PLANT REPRODUCTIVE PROPAGATING MATERIAL

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all breeders and suppliers of seeds and other plant reproductive material covered by Directives 66/401/EEC (fodder plants), 66/402/EEC (cereals), 68/193/EEC (vine), 98/56/EC (ornamentals), 1999/105/EC (forest reproductive material), 2002/53/EC (Common Catalogue of agricultural varieties), 2002/54/EC (beet), 2002/55/EC (vegetable seeds), 2002/56/EC (potato seeds), 2002/57/EC (oil and fibre plants), 2008/72/EC (vegetable propagating material) and 2008/90/EC (fruit plants) are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of marketing of plant reproductive material no longer apply to the United Kingdom. This has, in particular, the following consequences in the fields of inclusion in Common Catalogues and marketing:

Inclusion in Common Catalogues or national registry (catalogue, register or list)

All breeders and suppliers concerned by the marketing of the seed and propagating material mentioned above are reminded of certain legal repercussions, which need to be considered for the possible actions:

- Varieties of agricultural and vegetable species have to be maintained in an EU-27-Member State in order for their seed to be allowed to be marketed within the Union.

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

- According to the above mentioned legislation, varieties of fodder plant seed, cereal seed, beet seed, vegetable seed, vegetable propagating material, seed potatoes and seed of oil and fibre plants (agricultural and vegetable species) must be examined and accepted by at least one Member State and listed in the Common Catalogues of Directive 2002/53/EC or Directive 2002/55/EC to be allowed to be marketed throughout the Union. Varieties that have been included in the Common Catalogues by the United Kingdom only must be accepted by another Member State in order for the varieties to remain in those Common Catalogues in order to continue to be allowed to be marketed in the EU after the withdrawal date. The interested parties should thus submit the respective applications to the responsible official body of an EU-27-Member State in a timely manner before that date, in order to ensure that those varieties are also inserted in a timely manner in the respective Common Catalogues.

- Pursuant to Directive 68/193/EEC on vine propagating material, Directive 1999/105/EC on forest reproductive material, Directive 2008/90/EC on fruit propagating material, varieties or forest basic material may only be marketed throughout the Union once they are included in the national registry in one Member State or - in the case of Directive 1998/56/EC on ornamental propagating material – at least in a suppliers list of an EU-27 Member State. Varieties or basic material of forest plants included in the registry of United Kingdom only must be accepted by another Member State or supplier in another Member States in order for those varieties or material to continue to be allowed to be marketed in the EU after the withdrawal date. The interested parties should thus submit the respective applications to the responsible official body or supplier of an EU27-Member State in a timely manner before that date, in order to ensure that those varieties or material are inserted in a timely manner in the national registry or suppliers list.

- Several varieties intended for inclusion in the Common Catalogue of Directives 2002/53/EC or 2002/55/EC are currently being tested in premises of the United Kingdom (at the request of either breeders or of examination offices of EU-27 Member States on the basis of bilateral testing arrangements). Breeders should be aware that after the withdrawal date, the examination results have to stem from examinations in an EU-27 Member State for the variety to be included in the Common Catalogues or national registry. Breeders should also bear in mind that, in addition to examinations for DUS (Distinctness, Uniformity and Stability) where all Member States apply the same requirements, certain varieties will also need additional examinations for VCU (Value for Cultivation and Use) where the requirements of certain Member States might be different from the requirements of the United Kingdom.

Marketing of seed and propagating material

According to the aforementioned legislation, imports of seed and propagating material from third countries are subject to the respective provisions of each Directive concerning recognition of equivalent requirements of third countries.

Finally, stakeholders should be aware that preparing for the withdrawal of the United Kingdom is not just a matter for European and national administrations, but also for private parties. Breeders may thus be required to monitor the developments, adapt processes and to consider the changes described above.

The website of the Commission, Directorate General 'Health and Food Safety' on Plant Reproductive Material provides general information concerning that matter[4]. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Health and Food Safety

[4] https://ec.europa.eu/food/plant/plant_propagation_material_en

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH
AND FOOD SAFETY

CPVO · OCVV
Community Plant Variety Office
Office Communautaire des Variétés Végétales

Brussels, Angers, 23 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF UNION PLANT VARIETY RIGHTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'[3].

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all breeders within the meaning of Article 11(1) of Regulation (EC) No 2100/94 on Community plant variety rights (hereinafter: the Basic Regulation) are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of Plant Variety Rights no longer apply to the United Kingdom. This has, in particular, the following consequences:

- All Community Plant Variety Rights granted pursuant to the Basic Regulation will remain valid in the Union territory, regardless of the origin of the breeder or the location of the Examination Offices.
- The Examination Offices in the United Kingdom will no longer have the possibility to participate in the technical verification of the maintenance of the protected varieties pursuant to Articles 64 and 65 of the Basic Regulation. Technical

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

verifications following 30 March 2019 will be organised by the CPVO in an EU-27 based Examination Office.

- According to Article 82 of the Basic Regulation, persons who are not domiciled or do not have a seat or an establishment within the EU territory may participate as party to proceedings before the Office only if they have designated a procedural representative who is domiciled or has his seat or an establishment within the EU territory. All interested breeders who are currently domiciled or have a seat in the United Kingdom only should consider the need to designate in a timely manner a procedural representative to comply with the provisions of that Article.

Actions to be taken by the Community Plant Variety Office (CPVO)

The Examination Offices in the United Kingdom are entrusted for 864 botanical taxa. Out of those, there are 678 botanical taxa for which no other Examination Office is entrusted in the Union. The CPVO has received applications regarding 324 of the aforesaid 678 botanical taxa. In order to ensure the continuity of the technical examination of varieties belonging to those botanical taxa, the CPVO has organised a procedure (the "new species procedure") to ensure as from 30 March 2019 at the latest the entrustment of Examination Offices in the Union to cover at least all 324 botanical taxa for which an actual application for a Community Plant Variety Right has been received by the CPVO. The procedure has progressed satisfactorily and six Examination Offices have been entrusted in the Union for 322 of the above species. However, taking into account the need for some Examination Offices to adapt to the new technical expectations, DUS tests for some species can only start in October 2018 or January 2019.

All information on entrusted Examination Offices and species are available on the CPVO web site[4].

In order to avoid as much as possible transitional difficulties, CPVO will stop assigning the technical examination of varieties (Article 55(1) of the Basic Regulation) to the Examination Offices in the United Kingdom, where that examination is expected to last beyond 29 March 2019.

The website of the Commission, Directorate General 'Health and Food Safety', on Plants provides general information concerning Plant Variety Property Rights[5]. These pages will be updated with further information, where necessary.

DG for Health and Food Safety Community Plant Variety Office

[4] http://cpvo.europa.eu/en

[5] https://ec.europa.eu/food/plant/plant_property_rights_en

EUROPEAN COMMISSION
DIRECTORATE-GENERAL HEALTH AND FOOD SAFETY

Brussels, 23 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON CERTIFICATES OF COMPETENCE PURSUANT TO THE REQUIREMENTS OF REGULATION (EC) NO 1099/2009 ON THE PROTECTION OF ANIMALS AT THE TIME OF KILLING, TO SLAUGHTERHOUSE OPERATORS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless the withdrawal agreement establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law ceases to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, persons holding a certificate of competences pursuant to the provisions of Council Regulation (EC) No 1099/2009 *on the protection of animals at the time of killing*[1] (later called "the Regulation") and business operators concerned are reminded of certain legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, Council Regulation (EC) No 1099/2009 on the protection of animals at the time of killing no longer applies to the United Kingdom. This has, in particular, the following consequences for the certificates of competence required to perform certain operations in slaughterhouses.

Certificate of competence

Certificates of competence[2] delivered in the United Kingdom pursuant to Article 21 of the Regulation will no longer be valid in the European Union from the moment the United Kingdom becomes a third country.

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1 OJ L303, 18.11.2009, p. 1.

2 A certificate of competence is required to perform certain operations in a slaughterhouse (pursuant to Article 7(2) of the Regulation) as well as for people supervising the killing of fur animals (pursuant to Article 7(3) of the Regulation). A certificate of competence is also required for animal welfare officers (pursuant to Article 17(4) of the Regulation).

Persons who hold such a certificate of competence and want to continue their professional activities in the European Union will have to apply for a new certificate in an EU-27 Member State.

Slaughterhouse operators

Slaughterhouse operators shall ensure that some operations are only carried out by persons holding a certificate of competence (cf. Article 7(2) of the Regulation). This requirement also applies to animal welfare officers who are working in a slaughterhouse (cf. Article 17(4) of the Regulation).

Slaughterhouse operators are therefore invited to inform the persons concerned of the need to apply for a new certificate in an EU-27 Member State.

The website of the Commission on animal welfare (https://ec.europa.eu/food/animals/welfare_en) provides general information concerning animal welfare. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Health and Food Safety

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Brussels, 23 January 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF SUBSTANCES OF HUMAN ORIGIN (BLOOD, TISSUES AND CELLS, AND ORGANS)

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, health establishments, stakeholders and organisations subject to the Union legislation on substances of human origin (blood, tissues and cells, and organs) are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of substances of human origin (blood, tissues and cells, and organs) no longer apply to the United Kingdom. This has, in particular, the following consequences in the different areas:

- **Blood and blood components**: According to Article 21 (second subparagraph) of Directive 2002/98/EC[4], imports of blood and blood components from the United Kingdom will need to be tested in conformity with the Union testing requirements

1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003 setting standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and amending Directive 2001/83/EC, OJ L 33, 8.2.2003, p. 30.

(Annex IV to that Directive). They will also need to meet equivalent standards of quality and safety (Annex V to Directive 2004/33/EC[5]).

- **Tissues and cells:** Imports of tissues and cells from the United Kingdom will have to be undertaken by authorised importing tissue establishments located in the EU-27 (Article 9(1) of Directive 2004/23/EC[6]) and meet standards of quality and safety equivalent to those laid down in the Union legislation (Article 9(1) of Directive 2004/23/EC and Directive (EU) 2015/566[7]). Directive 2004/23/EC also establishes, in Article 9(2), rules for export of tissues or cells to third countries. In particular, those Member States that export tissues or cells to third countries must ensure that the exports comply with the requirements of this Directive. Moreover, according to Article 9(3) of Directive 2004/23/EC, in some cases (where certain specific tissues and cells are distributed directly for immediate transplantation to the recipient or in case of emergency) the import or export of tissues and cells may be authorised directly by the competent authority, as long as such imports and exports meet quality and safety standards equivalent to those laid down in Directive 2004/23/EC and implementing legislation.

- **Organs**: According to Article 20 of Directive 2010/53/EU[8], exchange of organs with the United Kingdom will need to be supervised by an EU-27 competent authority or European organ exchange organisations (where the Member State delegates the supervision to them) and meet quality and safety requirements equivalent to those laid down in the Union legislation.

- In accordance with the aforementioned legislation, in all cases, blood, tissues and cells, and organs will need to be **traceable from donor to recipient and *vice versa***.

The website of the Commission on blood, tissues and organs (https://ec.europa.eu/health/blood_tissues_organs/policy_en) provide for general information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Health and Food Safety

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5 Commission Directive 2004/33/EC of 22 March 2004 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards certain technical requirements for blood and blood components, OJ L 91, 30.3.2004, p. 25.

6 Directive 2004/23/EC of the European Parliament and of the Council of 31 March 2004 on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells, OJ L 102, 7.4.2004, p. 48.

7 Commission Directive (EU) 2015/566 of 8 April 2015 implementing Directive 2004/23/EC as regards the procedures for verifying the equivalent standards of quality and safety of imported tissues and cells Text with EEA relevance, OJ L 93, 9.4.2015, p. 56.

8 Directive 2010/53/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation, OJ L 207, 6.8.2010, p. 14.

Health and Food Safety & Agriculture and Rural Development

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Brussels, 20 March 2019
REV2 – Replaces the notice REV1
published on 1 February 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU FOOD LAW AND EU RULES ON QUALITY SCHEMES[1]

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[2] the United Kingdom will be a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[4] as of the withdrawal date, EU food law[5] and EU rules on quality schemes no longer apply to the United Kingdom. This has in particular the following consequences:[6]

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1 Including protected designations of origin (PDO), protected geographical indications (PGI), geographical indication of spirit drinks and aromatised wines (GI) and traditional specialities guaranteed (TSG).

2 In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 Cf. Part four of 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 (OJ, C 66 I, 19.2.2019, p. 1).

5 See Article 3(1) of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1). This notice also addresses the EU rules on organic production. This notice does not address introduction into the Union of personal consignments of products of animal origin of a non commercial character which form part of travellers' luggage, or are sent as small consignments to private persons, or are ordered remotely (for example, by mail, by telephone or via the internet) and

1. FOOD LABELLING AND FOOD INFORMATION, HEALTH AND IDENTIFICATION MARKS

EU food law harmonises the labelling of food placed on the EU market. The applicable rules are in particular contained in the following pieces of EU legislation:

- Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers;[7]
- Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods;[8]
- Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control;[9]
- Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed,[10] as well as Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC[11];
- Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products;[12]
- Sectorial EU food legislation addressing food labelling and information, such as legislation on spirit drinks,[13] honey,[14] coffee extracts and chicory extracts,[15]

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delivered to the consumer (see Commission Regulation (EC) No 206/2009 of 5 March 2009 on the introduction into the Community of personal consignments of products of animal origin and amending Regulation (EC) No 136/2004, OJ L 77, 24.3.2009, p. 1). For the latter matter, please consult the "Notice on travelling between the EU and the United Kingdom following withdrawal of the United Kingdom from the EU" (https://ec.europa.eu/info/sites/info/files/file_import/travelling_en.pdf).

6 This notice is also relevant for food coming from the Channel Islands and Isle of Man (Regulation (EEC) No 706/73 of the Council of 12 March 1973 concerning the Community arrangements applicable to the Channel Islands and the Isle of Man for trade in agricultural products, OJ L 68, 15.3.1973. p. 1).

7 OJ L 304, 22.11.2011, p. 18.

8 OJ L 404, 30.12.2006, p. 9.

9 OJ L 181, 29.6.2013, p. 35.

10 OJ L 268, 18.10.2003, p. 1.

11 OJ L 268, 18.10.2003, p. 24.

12 OJ L 347, 20.12.2013, p. 671.

13 Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks, OJ L 39, 13.2.2008, p. 16.

14 Council Directive 2001/110/EC of 20 December 2001 relating to honey (OJ L 10, 12.1.2002, p. 47).

cocoa and chocolate products intended for human consumption,[16] certain sugars,[17] fruit and vegetables and processed fruit and vegetables,[18] fruit juices,[19] fruit jams, jellies and marmalades[20] and certain milk products;[21]

- Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products.[22]

The EU food labelling rules apply to all food placed on the EU market, independently of the place of production of the food.

As of the withdrawal date, food placed on the EU-27 market[23] will have to comply with these rules in accordance with Article 11 of Regulation (EC) No 178/2002.

As a consequence, in some instances, EU food law may require some changes of the labelling of food placed on the EU-27 market as of the withdrawal date due to the fact that the United Kingdom will be a third country as of the withdrawal date. Examples include the following:

- Mandatory presentation of the origin of a food product, where appropriate ;[24]

- Mandatory labelling of the name or business name and address of the EU-27 importer of food from the United Kingdom;[25]

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15 Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts, OJ L 66, 13.3.1999, p. 26.

16 Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption, OJ L 197, 3.8.2000, p. 19.

17 Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption, OJ L 10, 12.1.2002, p. 53.

18 Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors, OJ L 157, 15.6.2011, p. 1.

19 Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption, OJ L 10, 12.1.2002, p. 58.

20 Council Directive 2001/113/EC of 20 December 2001 relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption, OJ L 10, 12.1.2002, p. 67.

21 Council Directive 2001/114/EC of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption, OJ L 15, 17.1.2002, p. 19.

22 OJ L 189, 20.7.2007, p. 1.

23 The notion of "placing on the market", is defined in Article 3(8) of Regulation (EC) No 178/2002: "*'placing on the market'" means the holding of food or feed for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution, and other forms of transfer themselves.*

24 See, for example, the labelling of "EU Agriculture" and "non-EU Agriculture" according to Article 24 of Council Regulation (EC) No 834/2007, or the labelling of honey as "blend of EU honeys" or "blend of non-EU honeys" (Article 2(4)(a) of Council Directive 2001/110/EC).

- Mandatory health or identification marks according to Article 5 of Regulation (EC) No 853/2004. As of the withdrawal, date the health mark[26] or the identification mark[27] shall no longer include the "EC" abbreviation,[28] [29]which is reserved for establishments located in the EU, but shall include the name of the country (in full or with the ISO two-letter code) where the establishment is located and the approval number of this establishment.[30]

Food business operators are advised to assess the need for possible changes to the labelling of food placed on the EU-27 market as of the withdrawal date.

Please note:

If an individual food product has been placed on the EU-27 market before the withdrawal date, i.e. it has been

- held in the EU-27 for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not; or
- sold, distributed, of transferred by other forms to the EU-27[31]

this "stock" of food can continue to be sold, distributed or transferred in the EU-27 as of the withdrawal date without the need for labelling changes.[32]

This is to be assessed for each individual product. It does not extend, for example, to a type of product.

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25 Articles 8(1) and 9(1)(h) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers (OJ L 304, 22.11.2011, p. 18).

26 Chapter III of Section I of Annex I to Regulation (EC) No 854/2004.

27 Section I of Annex II to Regulation (EC) No 853/2004;.

28 Point 3(c) Chapter III of Section I of Annex I to Regulation (EC) No 854/2004.

29 Point 8 of Part B of Section I of Annex II to Regulation (EC) No 853/2004.

30 It is possible for an animal-derived products to be marked (health or identification mark) in accordance with EU-law, and, in addition, in accordance with the requirements of a third country. However, EU law does not allow product to bear two markings under EU law, presenting the establishment as EU-based and third-country based.

31 See the definition in Article 3(8) of Regulation (EC) No 178/2002: "*'placing on the market' means the holding of food or feed for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution, and other forms of transfer themselves."*

32 For example, compliance as regards the EU origin of the product or the EU contact point of the producer

2. FOOD INGREDIENTS, FOOD COMPOSITION, CONTAMINANTS AND RESIDUE LIMITS; FOOD CONTACT MATERIAL

According to substantive EU food law, certain food must not be placed on the market unless it has been approved by the Commission (for example for food additives[33], food flavourings,[34] smoke flavourings,[35] vitamins and minerals used in food,[36] including in food supplements[37] and any novel food[38]) or an individual applicant has obtained an authorisation by the Commission (for example for genetically modified food[39]).

Certain food is subject to specific composition requirements[40] and EU food law sets limits for contaminants[41] [42], and maximum residue levels of active substances.[43]

Food contact materials placed on the EU market are subject to EU rules[44], and certain food contact materials are subject to additional specific measures.

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33 Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16).

34 Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods (OJ L 354, 31.12.2008, p. 34).

35 Regulation (EC) No 2065/2003 of the European Parliament and of the Council of 10 November 2003 on smoke flavourings used or intended for use in or on foods (J L 309, 26.11.2003, p. 1).

36 Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods, OJ L 404, 30.12.2006, p. 26.

37 Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements (OJ L 183, 12.7.2002, p. 51).

38 Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council (OJ L 327, 11.12.2015, p. 1).

39 Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (OJ L 268, 18.10.2003, p. 1).

40 Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control (OJ L 181, 29.6.2013, p. 35).

41 Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food (OJ L 37, 13.2.1993, p. 1).

42 Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (OJ L 164, 26.6.2009, p. 45).

43 Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin (OJ L 70, 16.3.2005, p. 1); Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin (OJ L 152, 16.6.2009, p.11).

EU law on food ingredients and food composition, as well as EU law setting limits for contaminants and residues in food, applies to all food placed on the EU market, independently of the place of production of the food. The same applies for food contact material. [45]

3. REQUIREMENTS FOR FOOD BUSINESS OPERATORS AND AUTHORISATION HOLDERS, OR THEIR REPRESENTATIVES, TO BE ESTABLISHED IN THE EU; SUBMISSION OF EU AUTHORISATION REQUESTS THROUGH AN EU MEMBER STATE

According to EU food law, in some instances the food business operators, authorisation holders, or their representatives have to be established in the EU. Examples include the following:

- Article 4(6) of Regulation (EC) No 1829/2003 on genetically modified food and feed, requires the applicant for an EU authorisation or his representative to be established in the EU;

- Article 15(1)(c) of Regulation (EU) No 1935/2004 on materials and articles intended to come into contact with food, requires, as regards materials and articles which are not yet in contact with food, the manufacturer, processor, or seller responsible for placing on the market to be established in the EU.[46]

As of the withdrawal date, establishment in the United Kingdom no longer complies with these requirements

According to EU food law, in some instances EU authorisations require the submission of an authorisation dossier through the competent authority of an EU Member State. Examples include the following:

- Article 9(1)(a) of Regulation (EC) No 1935/2004 on food contact materials requires applications for authorisations of substances to be made via a competent authority of a EU Member State.

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44 Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food (OJ L 338, 13.11.2004, p. 4).

45 In addition, EU law sets for certain agricultural products originating in third countries maximum permitted levels of radio-caesium, which are checked upon importation into the EU, see Council Regulation (EC) No 733/2008 of 15 July 2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station (OJ L 201, 30.7.2008, p.1); Commission Regulation (EC) No 1609/2000 of 24 July 2000 establishing a list of products excluded from the application of Council Regulation (EEC) No 737/90 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station (OJ L 185, 25.7.2000, p.27) and Commission Regulation (EC) No 1635/2006 of 6 November 2006 laying down detailed rules for the application of Council Regulation (EEC) No 737/90 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power-station(OJ L 306, 7.11.2006, p.3).

46 The same or similar requirements are set out in sectorial food contact material legislation. See, as regards ceramic food contact material, Article 2a(1) of Council Directive 84/500/EEC of 15 October 1984 on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs, OJ L 277, 20.10.1984, p. 12.

- Article 5 of Regulation (EC) No 1829/2003 on genetically modified food and feed requires applications for authorisation to be sent to the European Food Safety Authority (EFSA) through the competent authority of a Member State.

As of the withdrawal date, applications through the competent authority of the United Kingdom are no longer possible.

4. FOOD PRODUCTION RULES/FOOD HYGIENE RULES, FOOD IRRADIATION, ORGANIC PRODUCTION, FOOD CONTACT MATERIALS

EU food law sets rules for the production of food in the EU and in third countries, if this food is placed on the EU market. EU food law also provides for specific controls upon entry of food into the EU.

4.1. Food of animal origin[47]

As of the withdrawal date, the importation of food of animal origin from the United Kingdom into the EU-27 is prohibited, unless certain requirements are met, including:

- The United Kingdom is "listed" by the Commission for public[48] and animal health[49] purposes. For the "listing" of a third country, Article 6(1)(a) of Regulation (EC) No 853/2004[50], Article 11 of Regulation (EC) No 854/2004 and Article 8 of Council Directive 2002/99/EC apply.
- The establishment in the United Kingdom from which the food is dispatched, and obtained or prepared in, is "listed" by the Commission for public health purposes. For the "listing" of establishments, Article 6(1)(b)(i) of Regulation (EC) No 853/2004 and Article 12 of Regulation (EC) No 854/2004 apply.
- The United Kingdom is "listed" by the Commission as a third country having a residue control plan approved in accordance with Directive 96/23/EC[51] for the

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47 For "composite products" (i.e. foodstuff intended for human consumption that contains both processed products of animal origin and products of plant origin) Commission Decision 2007/275/EC of 17 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC (OJ L 116, 4.5.2007, p. 9) and Commission Regulation (EU) No 28/2012 of 11 January 2012 laying down requirements for the certification for imports into and transit through the Union of certain composite products and amending Decision 2007/275/EC and Regulation (EC) No 1162/2009 (OJ L 12, 14.1.2012, p. 1) set specific rules.

48 Article 11 of Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (OJ L 139, 30.4.2004, p. 206).

49 Article 8 of Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption (OJ L 18, 23.1.2003, p. 11).

50 Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

51 Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products (OJ L 125, 23.5.1996, p. 10).

animals and animal products specified therein. For the "listing" of a third country, Chapter VI of Directive 96/23/EC applies.

- The imported food satisfies all food hygiene requirements set out in Articles 4 to 6 of Regulations (EC) No 852/2004[52] and Articles 3, 4, 5, 7 and 8 of Regulation (EC) No 853/2004[53]. The possibility for national measures to achieve EU food hygiene standards ("flexibility provisions") in accordance with Article 13(3) of Regulation (EC) No 852/2004, Article 10(3) of Regulation (EC) No 853/2004 and Article 17(5) of Regulation (EC) No 854/2004 no longer applies to the United Kingdom.

Food business operators importing products of animal origin shall ensure that import takes place only if the above mentioned conditions are respected[54].

As of the withdrawal date, these substantial requirements are controlled upon entry into the EU-27 by applying mandatory border checks at the first point of entry into the Union territory:

- This food can only enter the EU-27 through approved "border inspection posts"[55];
- Each consignment undergoes documentary and identity checks, as well as at an appropriate frequency physical checks[56];
- Each consignment has to be accompanied by a certificate in compliance with EU food legislation[57] [58].

Regarding the transit of products of animal origin from an EU-27 Member State through a third country to another EU-27 Member State the following applies:

- These products can only re-enter the EU-27 through an approved border inspection post;
- Each consignment undergoes a simple documentary check to verify that the products are actually from the EU-27[59];

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52 Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p. 1).

53 Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

54 Paragraphs 1 to 4 of Article 6 of Regulation (EC) No 853/2004.

55 Commission Decision 2009/821/EC of 28 September 2009 drawing up a list of approved border inspection posts, laying down certain rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in Traces (OJ L 296, 12.11.2009, p. 1).

56 Depending on the food in question, see Commission Decision 94/360/EC of 20 May 1994 on the reduced frequency of physical checks of consignments of certain products to be implemented from third countries (OJ L 158, 25.6.1994, p. 41).

57 Article 14 of Regulation (EC) No 854/2004.

58 Article 9 of Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption (OJ L 18, 23.1.2003, p. 11).

- These provisions apply regardless of the conditions which might be required by the United Kingdom to transit on its territory.

4.2. Food of non-animal origin

Unlike for food of animal origin, the importation of food of non-animal origin is not subject to listing requirements of third countries and establishments.[60]

The EU Member States shall carry out regular official controls on imported food of non-animal origin. Those controls are organised on the basis of the multi-annual national control plan and in the light of potential risks. The controls shall cover all aspects of the food legislation. In cases of known or emerging risk, EU rules providing an increased level of official controls at designated points of entry into the Union may apply.[61]

In addition, in order to ensure phytosanitary protection of the EU-27 Member States, the following phytosanitary EU rules apply:

- The import of tubers of species of Solanum L. (ware potatoes), and their hybrids is prohibited.[62] For exceptions, Point 12 of Part A of Annex III to Council Directive 2000/29/EC applies.

- The import of certain fruits and vegetables is subject to specific requirements;[63]

- The import of food listed in Annex V to Directive 2000/29/EC (some of them subject to the import requirements mentioned in the previous point) requires a phytosanitary certificate. These foods are subject to 100% documentary controls at the point of entry. They are also subject to identity and physical controls, though at specified minimum frequencies depending on the risk that they present.[64]

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59 Article 6(1) of Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market (OJ L 395, 30.12.1989, p.13) and Article 7(1) of Council Directive 90/425/EEC of 26 June 1990 concerning veterinary checks applicable in intra-Union trade in certain live animals and products with a view to the completion of the internal market (OJ L 224 18.8.1990, p. 29).

60 With the exception of sprouts, where a specific regime applies (see Regulation (EU) 210/2013 of 11 March 2013 on the approval of establishments producing sprouts pursuant to Regulation (EC) No 852/2004 of the European Parliament and of the Council, OJ L 68, 12.3.2013, p. 24).

61 Commission Regulation (EC) No 669/2009 of 24 July 2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC (OJ L 194, 25.7.2009, p. 11).

62 Point 12 of Part A of Annex III to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1).

63 Part A of Annex IV to Directive 2000/29/EC.

64 Article 13a of Directive 2000/29/EC.

4.3. Irradiated food

Food treated with ionising radiation is regulated by EU law.[65] As of the withdrawal date, the import of irradiated food from the United Kingdom into the EU-27 is prohibited, unless the irradiation facilities in the United Kingdom are "listed" by the Commission. For the "listing" of a third country, Article 9(2) of Directive 1999/2/EC applies.

4.4. Recycled plastic materials and articles intended to come into contact with food

According to EU law, authorisation holders shall notify to the Commission manufacturing or recycling sites in third countries in which the recycling process of plastic materials and articles authorised pursuant to Regulation (EC) No 282/2008 takes place.[66]

4.5. Products bearing terms referring to the organic production method ("organic products"); certificates for organic production

According to Regulation (EC) No 834/2007[67], only products satisfying the requirements of that Regulation can bear terms referring to the organic production method (e.g. organic, bio, eco, etc.) or the EU organic logo. According to Articles 29, 27(4) and 2(n) of Regulation (EC) No 834/2007, the control authorities and bodies of the EU Member States are responsible for issuing documentary evidence (certificates) to the operators necessary for placing such products on the EU market.

- For an organic product from an EU-27 Member State placed on the EU-27 market as of the withdrawal date, the certificates issued by control authorities and bodies in accordance with Article 29 of Regulation (EC) No 834/2007 in the United Kingdom are no longer valid.

- For an organic product from the United Kingdom imported to the EU-27 market as of the withdrawal date, the rules laid down in Title VI of Regulation (EC) No 834/2007 apply. This requires that the product to be imported to the EU as organic is accompanied by a certificate that has been issued by a body recognised in accordance with Article 32(2) (for import of compliant products) or Article 33(3) (for import of equivalent products) of Regulation (EC) No 834/2007.[68] Without such a certificate, products from the United Kingdom cannot be imported into the EU-27 market as organic.

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[65] Directive 1999/2/EC of the European Parliament and of the Council of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation (OJ L 66, 13.3.1999, p. 16).

[66] Article 10(3) of Commission Regulation (EC) No 282/2008 of 27 March 2008 on recycled plastic materials and articles intended to come into contact with foods (OJ L 86, 28.3.2008, p. 9).

[67] Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

[68] A "listing" of the United Kingdom in accordance with Article 33(2) of Regulation (EC) No 834/2007 is no longer possible (Article 8(1) of Commission Regulation (EC) No 1235/2008 of 8 December 2008

Please note:

If an individual organic product has already been placed on the EU-27 market before the withdrawal date, i.e. it has been

- held in the EU-27 for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not; or
- sold, distributed, of transferred by other forms to the EU-27[69]

this "stock" of products can continue to be sold, distributed or transferred in the EU-27 as of the withdrawal date under a certificate by control authorities and bodies in accordance with Article 29 of Regulation (EC) No 834/2007 in the United Kingdom.

This is to be assessed for each individual product. It does not extend, for example, to a type of product.

- Organic products from a third country other than the United Kingdom can continue to be placed on the EU-27 market as of the withdrawal date as organic on the basis of certificates issued by bodies currently recognised in accordance with Article 33(3) of Regulation (EC) No 834/2007 for the third country concerned, including when the recognised body is a UK based body.[70]

5. EU RULES ON QUALITY SCHEMES

EU quality schemes protect the names of specific products to promote their unique characteristics, linked to their geographical origin as well as traditional know-how. Product names can be granted with a 'geographical indication' (GI) if they have a specific link to the place where they are made. The applicable rules are in particular contained in the following pieces of EU legislation:

- Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs[71] (in respect of Protected designations of origin, Protected geographical indications and Traditional specialities guaranteed);

- Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the

laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries, OJ L 334, 12.12.2008, p. 25).

69 See Article 2(j) of Regulation (EC) No 834/2007 and the definition in Article 3(8) of Regulation (EC) No 178/2002: "*'placing on the market' means the holding of food or feed for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution, and other forms of transfer themselves."*

70 This is currently only the case for one UK-based body, see Annex IV of Regulation (EC) No 1235/2008.

71 OJ L 343, 14.12.2012, p. 1.

markets in agricultural products[72] (in respect of Protected designations of origin and Protected geographical indications);

- Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks[73] and Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products[74] (in respect of Geographical indications).

As from the withdrawal date, EU legislation protecting the registered Protected designations of origin, Protected geographical indications, Geographical indications and Traditional specialities guaranteed will no longer have effect in the United Kingdom. Any right granted in accordance with the aforementioned Union law to protect Protected designations of origin, Protected geographical indications, Geographical indications and Traditional specialities guaranteed on or after the withdrawal date will only apply in the EU-27 Member States.

As a consequence of the United Kingdom's withdrawal from the Union, Protected designations of origin, Protected geographical indications, Geographical indications and Traditional specialities guaranteed registered and protected in accordance with the aforementioned Union law might not be protected in the United Kingdom without interruption. As such, interested right holders should assess whether to seek alternative means of securing protection of the relevant geographical names in the United Kingdom, in accordance with United Kingdom law.

The websites of the Commission on food imports (https://ec.europa.eu/food/safety/official_controls/legislation/imports_en), organic farming (https://ec.europa.eu/agriculture/organic/index_en) and quality schemes (https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels_en) provide for general information concerning EU food legislation for imported food and organic farming. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Health and Food Safety
Directorate-General for Agriculture and Rural Development

[72] OJ L 347, 20.12.2013, p. 671.

[73] OJ L 39, 13.2.2008, p. 16.

[74] OJ L 84, 20.3.2014, p. 1.

European Citizens' initiatives

EUROPEAN COMMISSION
Secretariat-General

Brussels, 13 April 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF THE EUROPEAN CITIZENS' INITIATIVE

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

The organisers of the ongoing citizens' initiatives as well as those intending to launch a citizens' initiative before the withdrawal date are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

The rules in the draft Withdrawal Agreement concerning transitional arrangements, agreed at negotiators' level between the EU and the UK and published on 19 March 2018, exclude the applicability in the United Kingdom of EU law on the European citizens' initiative during the transition period. (https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-united-kingdom-great-britain-and-northern-ireland-european-union-and-european-atomic-energy-community-0_en)

Thus, as of the withdrawal date, the EU rules on the European citizens' initiative, and in particular Article 11(4) of the Treaty on European Union and Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative ("ECI Regulation")[4] will no longer apply to the United Kingdom.

This will have, in particular, the following consequences for the organisation of the initiatives ongoing at the withdrawal date:

[1] Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

[2] Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

[3] A third country is a country not member of the EU.

[4] OJ L 65, 11.03.2011, p. 1.

1. ORGANISERS

As of the withdrawal date, United Kingdom citizens can no longer be organisers of citizens' initiatives under the ECI Regulation which are ongoing on the withdrawal date or which have been launched on or after the withdrawal date.

In case there are United Kingdom citizens or residents among the seven registered initiative organisers, they must be replaced by other individuals as of the withdrawal date so that the committee fulfils the conditions of Article 3(2) of the ECI Regulation.

2. SIGNATORIES

As of the withdrawal date, statements of support submitted on the United Kingdom form will no longer be considered by the Commission unless they have been verified and certified under Article 8(1) of the ECI Regulation before the withdrawal date. This shall apply to both statements of support submitted by United Kingdom citizens residing in the United Kingdom, and by EU27 citizens residing in the United Kingdom.

Statements of support submitted by the United Kingdom citizens residing in those Member States, which accept statements of support from their residents[5], will only be considered if collected before the withdrawal date. Verification and certification under Article 8(1) of the ECI Regulation can take place before or after the withdrawal date.

3. ONLINE COLLECTION SYSTEMS

As of the withdrawal date, any online collection system certified by the United Kingdom authorities in accordance with Article 6 of the ECI Regulation can no longer be used.

A dedicated Commission website (ec.europa.eu/citizens-initiative) provides general information on the European Citizens' Initiative. This website will be updated with further information, where necessary.

European Commission
Secretariat-General

[5] Belgium, Denmark, Germany, Estonia, Ireland, Greece, Spain, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxemburg, Hungary, Malta, the Netherlands, Poland, Romania, Slovenia, Slovakia, Finland and Sweden.

Trade & Taxation and Customs Union

EUROPEAN COMMISSION
DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION
DIRECTORATE-GENERAL FOR TRADE

Brussels, 30 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF CUSTOMS AND INDIRECT TAXATION

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, economic operators are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.[4]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of customs (see below, 1)

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 For a movement of goods that has started before and ends on or after the withdrawal date, the EU undertakes to agree solutions with the United Kingdom in the withdrawal agreement on the basis of the EU's position on Customs related matters needed for an orderly withdrawal of the United Kingdom from the Union (https://ec.europa.eu/commission/publications/position-paper-customs-related-matters-needed-orderly-withdrawal-uk-union_en). The position paper also addresses administrative cooperation procedures on or after the withdrawal date between the EU-27 and the United Kingdom related to facts that have occurred prior to the withdrawal date (for example, mutual assistance related to the verification of proofs of origin).

and indirect taxation (VAT and excise duties – see below, 2) no longer apply to the United Kingdom.[5]

This has in particular the following consequences as of the withdrawal date[6]:

1. CUSTOMS

- Goods which are brought into the customs territory of the EU from the United Kingdom or are to be taken out of that territory for transport to the United Kingdom, are subject to customs supervision and may be subject to customs controls in accordance with Regulation (EU) No 952/2013 of 9 October 2013 laying down the Union Customs Code.[7] This implies inter alia that customs formalities apply, declarations have to be lodged and customs authorities may require guarantees for potential or existing customs debts.

- Goods which are brought into the customs territory of the EU from the United Kingdom are subject to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.[8] This implies the application of the relevant customs duties.

- Certain goods which enter the EU from the United Kingdom or are leaving the EU to the United Kingdom are subject to prohibitions or restrictions on grounds of public policy or public security, the protection of health and life of humans, animals or plants, or the protection of national treasures.[9]

- Authorisations granting the status of Authorised Economic Operator (AEO) and other authorisations for customs simplifications, issued by the customs authorities of the United Kingdom will no longer be valid in the customs territory of the Union.

- Goods originating in the United Kingdom that are incorporated in goods exported from the EU to third countries will no longer qualify as "EU content" for the purpose of the EU's Common Commercial Policy. This affects the ability of EU exporters to cumulate with goods originating in the United Kingdom and may affect the applicability of preferential tariffs agreed by the Union with third countries.

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5 This note does not address the general customs and tax free allowances applicable to goods in the personal luggage of travelers entering the EU.

6 The listing illustrates some important consequences in the field of customs and indirect taxation of the withdrawal of the United Kingdom from the Union but is not meant to be exhaustive.

7 OJ L 269, 10.10.2013, p. 1.

8 OJ L 256, 7.9.1987, p. 1.

9 A list with such prohibitions and restrictions is published on the website of DG TAXUD and can be accessed here: https://ec.europa.eu/taxation_customs/sites/taxation/files/prohibition_restriction_list_customs_en.pdf

2. INDIRECT TAXATION (VAT AND EXCISE DUTIES)

- Goods which enter the VAT territory of the EU from the United Kingdom or are dispatched or transported from the VAT territory of the EU to the United Kingdom will respectively be treated as importation or exportation of goods in accordance with Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (the 'VAT Directive').[10] This implies charging VAT at importation, while exports are exempt from VAT.

- Taxable persons wishing to use one of the special schemes of Chapter 6 of Title XII of the VAT Directive (the so-called Mini One-Stop Shop or MOSS), who supply telecommunications services, broadcasting services or electronic services to non-taxable persons in the EU, will have to be registered for the MOSS in a Member State of the EU.

- Taxable persons established in the United Kingdom purchasing goods and services or importing goods subject to VAT in a Member State of the EU who wish to claim a refund of that VAT may no longer file electronically in accordance with Council Directive 2008/9/EC[11] but have to claim in accordance with Council Directive 86/560/EEC[12]. Member States may make refunds under the latter Directive subject to reciprocity.

- A company established in the United Kingdom carrying out taxable transactions in a Member State of the EU may be required by that Member State to designate a tax representative as the person liable for payment of the VAT in accordance with the VAT Directive.

- The movement of goods which enter the excise territory of the EU from the United Kingdom or are dispatched or transported from the excise territory of the EU to the United Kingdom will respectively be treated as importation or exportation of excise goods in accordance with Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty[13]. This implies, inter alia, that the Excise Movement and Control System (EMCS) on its own will no longer be applicable to excise duty suspended movements of excise goods from the EU into the United Kingdom, but those movements will be treated as exports, where excise supervision ends at the place of exit from the EU. Movements of excise goods to the United Kingdom will therefore require an export declaration as well as an electronic administrative document (e-AD). Movements of excise goods from the United Kingdom to the EU will have to be released from customs formalities before a movement under EMCS can begin.

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[10] OJ L 347, 11.12.2006, p. 1.

[11] Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ L 44, 20.2.2008, p. 23).

[12] Thirteenth Council Directive 86/560/EEC of 17 November 1986 on the harmonisation of the laws of the Member States relating to turnover taxes – Arrangements for the refund of value added tax to taxable persons not established in Community territory (OJ L 326, 21.11.1986, p. 40).

[13] OJ L 9, 14.1.2009, p. 12.

The websites of the Commission on taxation and customs union (https://ec.europa.eu/taxation_customs/index_en) and external trade (http://ec.europa.eu/trade/import-and-export-rules/) provides for general information on the rules as they apply currently to the importation and exportation of goods. The relevant pages will be updated with further information, whenever available.

European Commission
Directorate-General Taxation and Customs Union
Directorate-General for Trade

EUROPEAN COMMISSION
DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION

Brussels, 11 March 2019

GUIDANCE NOTE

WITHDRAWAL OF THE UNITED KINGDOM AND CUSTOMS RELATED MATTERS IN CASE OF NO DEAL

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

This guidance note addresses a situation where the UK becomes a third country on the withdrawal date without a withdrawal agreement and hence without a transition period provided for in the draft Withdrawal Agreement.[3]

As of the withdrawal date, the Union rules in the field of customs no longer apply to the UK. The UK will be treated as any other third country with which the EU does not have any preferential trade relationship or customs or other agreements or arrangements. Preferences shall not be granted either to goods originating in the **Overseas Countries and Territories which have special relations with the UK** and are listed in Annex II of the TFEU (UK OCTs).[4] As of that date, appropriate rules in the field of customs, including the common customs tariff, and EU commercial policy measures will apply to the UK.

Furthermore, the UK will no longer have access to the EU customs IT systems.

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1 In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

2 A third country is a country not member of the EU.

3 Cf. Part four of 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 (OJ, C 66 I, 19.2.2019, p. 1).

4 The UK OCTs listed in Annex II of the TFEU are: Anguilla, Cayman Islands, Falkland Islands, South Georgia and the South Sandwich Islands, Montserrat, Pitcairn, Saint Helena and Dependencies, British Antarctic Territory, British Indian Ocean Territory, Turks and Caicos Islands, British Virgin Islands and Bermuda.

This guidance note aims to give guidance on the consequences for customs processes as of the withdrawal date[5] and should be read in conjunction with the Guidance note on excise issues.[6]

1. ECONOMIC OPERATOR REGISTRATION IDENTIFICATION (EORI)

a) Following the withdrawal of the UK the trade patterns of persons, **established in the Union**, who currently carry out transactions only with economic operators or other persons in the UK might change. While they are currently not involved in trade with third countries but only in intra-Union transactions, and hence have not been assigned an EORI number by any MS, they will carry out transactions requiring customs formalities. This requires, according to UCC[7] legislation, them to register with customs authorities in the Member State where they are established.

Nothing prevents those economic operators to submit the required data or undertake the necessary steps for the registration (Annex 12-01 UCC DA[8]) already in advance of the withdrawal date.

b) Two categories of persons currently **established in the UK or registered with a UK EORI number** need to be distinguished:

– Persons who are currently not involved in trade with third countries but only in intra-Union transactions, and who hence have not been assigned an EORI number by any MS, but as of the withdrawal date intend to carry out transactions requiring customs formalities, which, according to UCC legislation, requires them to be registered with customs authorities in the Union.

– Economic operators and other persons, including third country operators, who have a currently valid EORI number assigned by the UK customs authority which will be invalid in the EU27 as of the withdrawal date.

  In this case, economic operators must be aware of the fact that they have to register with the competent customs authority in the EU27 and to use the new EORI number when applying for a customs decision after the withdrawal.

Following the withdrawal, economic operators established in the UK or in another third country, have to register according to Article 9(2) UCC with the competent customs authority in a Member State. Economic operators that have a permanent business establishment in a Member State as defined in Article 5(32) UCC have to register with the customs authorities in the Member State where the permanent

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5 This **guidance** note further complements the "Notices to stakeholders" published by the Commission services in the area of EU customs law (https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud).

6 See https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud.

7 Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

8 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).

business establishment is situated. Economic operators that do not have a permanent business establishment in a Member State have to register in the Member State responsible for the place where they first lodge a declaration or apply for a decision; in addition, those economic operators need to appoint a fiscal representative, where required by current legislation.

Nothing prevents also those economic operators to submit the required data or undertake the necessary steps for the registration (Annex 12-01 UCC DA) already in advance of the withdrawal date. Customs authorities of the Member States should accept requests already before the withdrawal date and assign to them EORI numbers with the withdrawal date as the starting date "YYYYMMDD" or thereafter, according to the requests of the persons concerned.

2. CUSTOMS DECISIONS

2.1 Authorisations

The impact of the UK withdrawal on authorisations depends on the type of authorisation including the issuing customs authority, the holder of the authorisation and the geographical coverage.

Authorisations granted by UK customs authorities

As a rule, any authorisation already granted by UK customs authorities are no longer valid in the EU27 as of the withdrawal date. The customs authorities of the UK are no longer an EUcompetent customs authority as of that date.

When the UK accedes to the Convention on a common transit procedure[9] (CTC) as a Contracting Party in its own right as of the withdrawal date, authorisations granted by the UK for transit simplifications[10] will no longer be valid in the EU27 Customs Decisions system, but need to be treated in the UK's national system as a Contracting Party to the CTC.

Authorisations granted by the EU27 customs authorities

In general, authorisations granted by an EU27 customs authority will remain valid but need to be amended by the customs authority on their own initiative or following an application to amend from the economic operator in view of the geographical coverage or elements of the authorisation related to the UK and be amended as appropriate.[11] However, authorisations granted to economic operators with UK EORI numbers are no longer valid in the EU27 as of the withdrawal date, unless the

9 OJ L 226, 13.8.1987, p. 2, as last amended by Decision 1/2017, OJ L 8, 12.1.2018, p 1.

10 Authorisations for comprehensive guarantee including waiver and authorisations to use the electronic transport document (ETD) as a transit declaration for goods carried by air as authorisations with a link to the EU27.

The use of the comprehensive guarantee requires a recalculation of the reference amount due to the changes of the customs status of the goods to be covered under common transit.

11 See Article 23(4)(a) UCC, Article 15 UCC DA.

economic operator is established in the EU27, has the possibility to obtain an EU27 EORI and to apply for an amendment of the authorisation to include the new EU27 EORI instead of the UK EORI number. In order to facilitate the preparation by the stakeholders, it is also possible for the customs authority to amend authorisations without a prior application.

The authorisations granted to economic operators with EU27 EORI numbers, which are currently also valid in the UK need to be amended in order to take account of the withdrawal and the corresponding geographical coverage, e.g. in the authorisation concerning the Regular Shipping Service, the routes containing UK ports will have to be deleted.

A Single Authorisation for Simplified Procedures (SASP) which today covers the UK and a single MS will no longer be valid as of the withdrawal date. Nonetheless, it might be amended and could become a national authorisation. Where a SASP authorisation covers the UK and more than one EU27 Member State, that authorisation remains valid, but needs to be amended. In case the SASP authorisation covers simplified declarations, it should be noted that the economic operator needs to submit the supplementary declaration covering also the UK only for the period until the day before the withdrawal date; a separate supplementary declaration covering the remaining Member States only has to be made for any remaining days of that calendar month.

Authorisations to use the comprehensive guarantee where the guarantor is established in the UK will be suspended until the economic operator has replaced the UK guarantor by a guarantor established in the EU27.

The use of the comprehensive guarantee requires a recalculation of the reference amount due to the changes of the customs status of the goods to be covered under common transit.

Economic operators who currently do not require authorisations but whose situation will change as of the withdrawal date need to apply for the relevant authorisation. Operators who are currently holders of authorisations granted by UK customs authorities and who draw the conclusion that they will meet the UCC requirements after the withdrawal need to apply for the relevant authorisations to the EU27 customs authorities. The applications may already be submitted in advance of the withdrawal date to allow the competent customs authority to prepare taking the decision. In any case, the decision shall only take effect as of the withdrawal date at the earliest.

This applies also to economic operators who are currently registered with a UK EORI, and have an EU27 Member State EORI number with a future starting date. In their case, however, the Customs Decision System (CDS) does not accept an EORI number, which will become valid only in the future, while it allows for a future validity date of the authorisation. Consequently, applications for authorisations, which are covered by CDS[12] and submitted by those economic operators, have to be dealt with outside CDS. As of the withdrawal date, when the EORI becomes valid, the authorisation should be entered into the system.

[12] See Article 5 of Implementing Regulation 2017/2089, OJ L 297, 15.11.2017, p. 13.

2.2 Decisions relating to binding tariff information (BTI decisions)

A decision relating to binding tariff information (BTI decision) is an official written decision issued by a customs authority which provides the applicant with an assessment of the classification of goods in the EU tariff nomenclature prior to an import or export procedure. The BTI decision is binding on all the EU customs authorities and the holder of the decision.

The BTI decisions already issued by the customs authorities of the UK will no longer be valid in the EU27 as of the withdrawal date.

Any BTI applications submitted to the customs authorities of the UK or applications by or on behalf of persons holding a UK's EORI number made to the customs authorities of other Member States before the withdrawal date, but not processed before that date, shall not result in BTI decisions as of the withdrawal date.

The BTI decisions issued by the customs authorities of the EU27 Member States to holders with UK EORI numbers will no longer be valid as of the withdrawal date as the EORI numbers will no longer be valid in the customs territory of the Union and as BTI decisions may not be amended (Article 34(6) UCC). This will be reflected automatically in the EBTI-3 system. Those BTI decision holders shall register with the customs authorities in accordance with Article 9(2) and (3) UCC and Article 6 UCC DA to obtain a valid EORI number before applying for a new BTI decision in the EU27. The applicant could request a reissuing of his previous BTI decision by including a reference thereto in the application form.

2.3 Decisions relating to binding origin information (BOI decisions)

A decision relating to binding origin information (BOI decision) is a written decision by a customs authority taken upon application, which provides its holder with a determination of the origin of goods prior to an import or export procedure. The BOI decision is binding on all the customs authorities in the EU and on the holder of the decision.

The BOI decisions already issued by the customs authorities of the UK will no longer be valid in the EU27 as of the withdrawal date.

Any applications for BOI decisions submitted to the customs authorities of the UK or applications by or on behalf of persons holding a UK's EORI number made to the customs authorities of other Member States before the withdrawal date, but not processed before that date, shall not result in BOI decisions as of the withdrawal date.

In addition, with a view to taking BOI decisions as of the withdrawal date, the customs authorities of the EU27 shall not consider UK inputs (materials or processing operations) as having an 'EU origin' (for non-preferential purpose) or being ‘originating in the EU’ (for preferential purpose) for the determination of the origin of goods incorporating those inputs.

The BOI decisions issued by the customs authorities of the EU27 to holders with UK EORI numbers will no longer be valid as of the withdrawal date, as the EORI numbers will no longer be valid in the customs territory of the Union insofar as BOI decisions

may not be amended (Article 34(6) UCC). Those BOI decision holders have the possibility to register with the customs authorities to obtain a valid EORI number before applying for a new BOI decision in the EU27.

BOIs issued before the withdrawal date referred to goods including UK inputs (materials or processing operations) which were determinant for the acquisition of origin will no longer be valid as of the withdrawal date.

3. BAGGAGE TAGS

A baggage tag as set out in Annex 12-03 UCC IA may be affixed on hold baggage, which is scheduled to leave the UK with an aircraft before the withdrawal date, but arrives at an EU27 airport as of that date.

4. TARIFF QUOTAS

4.1 First come-first served tariff quotas

Requests by operators to benefit from Union tariff quotas according to the UCC which are based on declarations that have been accepted prior to the withdrawal date are eligible where the required supporting documents have been provided to the UK customs authorities prior to that date. Declarations accepted by the UK customs authorities as of the withdrawal date are not eligible to benefit from Union tariff quotas.

Where the UK customs authorities have transmitted valid requests to the Commission without delay, the Commission will allocate quantities according to Article 51(2) UCC IA[13] and will communicate the amounts allocated to the UK thereafter.

4.2 Tariff quotas managed by licences

For licence-managed Union tariff quotas, the rights and obligations that arise from UK agricultural licences allocated by the licensing issuing authorities of the UK as well as those that were transferred to operators established in the UK will cease to be valid in the EU27 as of the withdrawal date. As of that date, EU27 customs administrations shall not any longer accept those licences.

Licences issued by EU27 licensing authorities will remain valid within the EU27, unless transferred to operators established in the UK.

5. PREFERENTIAL ORIGIN[14] ASPECTS

As of the withdrawal date the UK becomes a third country to which the EU preferential trade arrangements with third countries cease to apply.

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[13] Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

[14] References to "originating" or "non-originating" in this section should be considered only in relation to preferential origin.

5.1 Consideration of the preferential origin

a) UK inputs

As from the withdrawal date UK inputs (material or processing operations) are considered as 'non-originating' under preferential trade arrangements for the determination of the preferential origin of goods incorporating those inputs, in accordance with the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of customs and external trade: Preferential origin of goods*".[15]

b) EU imports from the UK

Goods imported into the EU from the UK as of the withdrawal date will become non-originating goods for the purposes of their use under EU preferential arrangements. This means that:

i. Goods produced in the UK before the withdrawal date, if imported into the EU as of the withdrawal date, are not considered as EU originating for the purposes of their direct exportation, or exportation after further processing, to an EU preferential partner country.

ii. Goods produced in the EU27 before the withdrawal date, if imported from the UK as of the withdrawal date, are not considered as EU originating for the purposes of their direct exportation, or exportation after further processing, to an EU preferential partner country.

iii. Goods originating in preferential partner countries and imported into the UK before the withdrawal date in accordance with the preferences provided by EU trade preferential arrangements, if imported into the EU after withdrawal, are not considered as originating in the corresponding partner country. These goods can therefore not be used for cumulation purposes with that partner country (bilateral cumulation) or with other partner countries (diagonal cumulation) under the EU preferential arrangements.

c) EU exports to, and imports from, preferential partner countries via the UK

Goods **imported** as of the withdrawal date **from the EU27 via the UK into a third country** with which the EU has a preferential arrangement may be entitled for preferential treatment in that third partner country, provided that the provisions on direct transport/non-manipulation contained in the origin provisions of the relevant EU preferential arrangements are respected.

Similarly, goods **imported** as of the withdrawal date **from EU partner countries into the EU via the UK** may be entitled for preferential treatment in the EU provided that the provisions on direct transport/non-manipulation contained in the origin provisions of the relevant EU preferential arrangements are respected.

[15] https://ec.europa.eu/taxation_customs/sites/taxation/files/notice-to-stakeholders-brexit-preferential-origin-final_en.pdf

d) UK Overseas Countries and Territories

Materials originating and work or processing carried out in the UK Overseas Countries and Territories (Annex II TFEU), are not considered as originating when determining the origin of goods imported into the EU from other OCTs or from EU partner countries as from the withdrawal date.

5.2 Proofs of origin

a) General principle:

In principle, proofs of origin can be issued or made out only if the products comply, at the time where the proofs are issued or made out, with the origin rules established in the relevant preferential trade agreement or arrangement. As of the withdrawal date, UK content will be considered as non-originating for the purposes of issuing or making out proofs of origin. Supporting documents (including proofs of origin and suppliers' declarations) can be relied upon for the issuance of proofs of origin on the condition that they do not concern UK content which is determinant for the acquisition of origin. Exporters and competent customs or other competent authorities issuing or making out such proofs of origin as of the withdrawal date are required to ascertain whether the supporting documents meet the conditions at the time of issuance of the proof.

b) Proofs of origin issued in the EU

The following proofs of origin issued or made out before the withdrawal date in the EU remain valid, when the export of the consignment has been effected or ensured before the withdrawal date.

- Proofs of origin issued or made out in the UK before the withdrawal date;
- Proofs of origin issued or made out in the EU27 before the withdrawal date in relation to goods with a UK content;
- Certificates of origin issued by EU27 customs authorities for UK exporters;

Invoice declarations, origin declarations or statements on origin made out by UK exporters for the exportation of the EU originating products from the EU27 before the withdrawal date.

The validity is limited to the period established under the relevant EU trade preferential arrangements, for the purpose of being used at importation in the partner country in accordance with the relevant provisions of the EU preferential arrangements.

However, EU preferential partner countries may question such proofs of origin and request verification when they accompany goods imported in the preferential partner countries as of the withdrawal date. In these cases, the EU27 Member State customs authorities will reply, to verification requests, in accordance with the possibilities available to them to confirm the originating status of the goods or the authenticity of those proofs. For those purposes, the EU origin shall be determined as of the time

when the proofs were issued, in light of the principle described in the first paragraph above.

c) Proofs of origin issued in the EU preferential partner countries

Proofs of origin issued or made out in EU preferential partner countries before the withdrawal date in relation to goods with UK content which was determinant for the acquisition of the partner country origin, may be used for importation purposes in the EU during the period of its validity as provided under the relevant EU trade preferential arrangements, when the export of the consignment has been effected or ensured before the withdrawal date.

However, UK content incorporated in goods with EU origin imported in the EU preferential partner countries and accompanied by a valid EU proof of origin may not be used in the EU preferential partner countries for cumulation purposes as of the withdrawal date.

5.3 Supplier's declarations for preferential trade purposes

Supplier's declarations are supporting documents on which basis proofs of origin can be issued. As of the withdrawal date, they can be relied upon for the issuance of proofs of origin on the condition that they do not include UK content which is determinant for the acquisition of origin. Exporters and competent customs or other competent authorities issuing or making out such proofs of origin as of the withdrawal date are required to ascertain whether supplier's declarations meet the conditions at the time of issuance of the proof.

As of the withdrawal date:

- Supplier's declarations made out by UK suppliers before the withdrawal date may not be used for the purposes of issuing or making out proofs of origin in EU27 Member States as of the withdrawal date.

- Suppliers in EU27 Member States providing the exporter or the trader with the information necessary to determine the preferential origin status of goods through supplier’s declarations should inform the exporters and traders on the changes on the originating status of the goods supplied before that date and for which they provided such supplier’s declarations.

- In the case of long-term supplier’s declaration, the suppliers established in the EU27 should inform the exporter or trader if the long-term supplier's declaration is not valid any longer as of that date for all or some consignments covered by the long-term supplier’s declaration.

5.4 Exporters under preferential trade

As of the withdrawal date, the following aspects should be considered:

a) With respect to approved exporters for the purposes of making out invoice declarations or origin declarations in accordance with the relevant provisions on preferential origin of the Union:

- Authorisations granted by UK customs authorities to exporters and re-consignors to be approved exporters are no longer valid in the EU27 as of the withdrawal date.
- Authorisations granted by EU27 customs authorities to exporters and re-consignors established in the UK are no longer valid in the EU27 as of the withdrawal date.
- Authorisations granted by EU27 customs authorities to exporters and re-consignors established in the EU27 with a UK EORI number are no longer valid in the EU27 as of the withdrawal date.
- EU approved exporters and re-consignors established in the EU27 should inform the concerned national customs authority regarding changes on the fulfilment of the conditions subject to which they were authorised, considering that UK content will be non-originating as of the withdrawal date. Accordingly, EU27 customs authorities which authorised those exporters and re-consignors as approved exporters will amend or withdraw the authorisation as appropriate.

b) With respect to registered exporters (REX) for the purposes of making out invoice declarations or origin declarations in accordance with the relevant provisions on preferential origin of the Union:

- Registration by UK customs authorities of exporters and re-consignors in REX are no longer valid in the EU27 as of the withdrawal date.
- Registrations by EU27 customs authorities to exporters and re-consignors established in the UK are no longer valid in the EU27 as of the withdrawal date.
- Registrations by EU27 customs authorities to exporters and re-consignors established in the EU27 with a UK EORI number are no longer valid in the EU27 as of the withdrawal date.
- EU registered exporters and re-consignors established in the EU27 should inform immediately the concerned national customs authority on any relevant change relating to information they provided for the purposes of their registration. Accordingly, EU27 customs authorities which have registered those exporters and re-consignors will revoke the registration if the conditions for being registered are no longer met.

5.5 Origin quota derogations established in certain EU FTAs

Since origin quota derogations are covered by Article 56(4) UCC, the same rules as those for tariff quotas in Section 4.1 will apply.

6. VALUATION

As of the withdrawal date, for the goods produced in the UK using assists[16] and imported into the EU27 after that date, the value of those assists will have to be added

[16] Goods and services referred to in Article 71(1)(b) UCC.

to the customs value of the goods, in accordance with the conditions[17] specified in Article 71(1)(b) UCC and Article 135 UCC IA.

7. ENTRY OF GOODS INTO THE CUSTOMS TERRITORY OF THE UNION

7.1 Entry summary declaration (ENS)

Goods brought from the UK into the customs territory of the Union as of the withdrawal date shall be covered by an entry summary declaration (ENS), where required, which has to be lodged within the time-limits set out in the UCC DA[18]. That covers also the goods moving between two points in the customs territory of the Union via the UK. A transit declaration comprising all security and safety data may be used to comply with ENS requirements and subject to time-limits being respected, e.g. where common transit is used.

Where an ENS was lodged at the customs office of first entry in the UK before the withdrawal date, it will not remain valid for subsequent ports or airports in the EU27 where the goods are arriving as of that date. The economic operator shall lodge a new ENS covering all goods arriving in the EU27. Where in those cases the operator could not comply with the respective time-limits, the ENS lodgement should be accepted.

Where an ENS was lodged at the customs office of first entry in the EU27 before the withdrawal date, with subsequent ports located in the UK and in the EU27, and where the vessel after calling at a UK port arrives in a subsequent EU27 port as of the withdrawal date, an ENS for all goods on the vessel shall be lodged.

The same applies in case of diversions. Goods covered by an ENS, which had been lodged before the withdrawal date with a customs office in the UK, were diverted and arrive in the EU27 instead as of the withdrawal date. In such case, the previous ENS will be deleted by the system and deemed not having been lodged after 200 days and the economic operator has to lodge a new ENS for the goods then brought to the EU27.

In the specific cases where goods leave the UK directly for the EU27 before the withdrawal date and arrive in the customs territory of the Union as of that date, no ENS is required.

7.2 Temporary storage of goods (TS)

Authorisations for the operation of temporary storage facilities granted by the UK customs authorities will cease to be valid in the EU27 as of the withdrawal date. Authorisations granted by the EU27 customs authorities including the possibility to move goods to a temporary facility in the UK will have to be amended to exclude such possibility as of the withdrawal date.

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[17] The value of assists, apportioned as appropriate, has to be added to the price when they are supplied directly or indirectly by the buyer/importer for use in connection with the production and sale for export of the imported goods, to the extent that their value has not been included in the price actually paid or payable.

[18] Article 105 UCC DA, as amended by Commission Delegated Regulation (EU) 2019/334 of 19 December 2018, OJ L 60, 28.2.2019, p. 1.

Where goods in TS covered by an authorisation for the operation of TS facilities granted by the UK customs authorities will be moving between a temporary storage facility in the UK and another one in the EU27 and will arrive at the EU27 border as of the withdrawal date, those goods will be treated as non-Union goods brought to the customs territory of the Union from a third country. Where those goods arrive in the EU27 already before the withdrawal date, but their movement to an EU27 TS facility is intended to continue as of that date, that movement will not be covered by a valid authorisation. Therefore, temporary storage for those goods should end before the withdrawal date (e.g. by placing the goods under a customs procedure or re-exporting them). If such regularisation does not take place, there will be a non-compliance of the obligations laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur. In the case of goods in TS covered by an authorisation granted by the EU27 customs authorities and located in the UK as of the withdrawal date, such goods will be deemed to have been re-exported.

7.3 Customs status of goods

As a general rule, for Union goods which are moving as intra-Union movement from the UK around the withdrawal date, their treatment will depend on when they enter the customs territory of the Union: where they enter the EU27 before the withdrawal date, they will keep their customs status of Union goods; where they arrive at the EU27 external border as of the withdrawal date, they will be treated as any other third-country goods.

For Union goods moving between two points in the customs territory of the Union via the UK, where the movement starts as an intra-Union movement, a proof of Union status shall be accepted where those goods re-enter the customs territory of the Union only as of the withdrawal date after having crossed the UK. Besides that, any formalities required for goods re-entering the customs territory of the Union will be required, e.g. ENS.

Where Union goods are carried by air and have been loaded or transhipped at a UK airport for consignment to an EU27 airport and are carried under a single transport document (STD) according to Article 119(2)(a) UCC DA issued in the UK and that movement actually leaves the UK airport before the withdrawal date and arrives at an EU27 airport on the withdrawal date, those goods will keep their Union status. This will be practically relevant only for aircraft leaving from a UK airport in the late hours before 00:00 CET on the withdrawal date on a direct flight to an EU27 airport and arriving there after 00:00 CET on the withdrawal date.

Where Union goods are carried by sea on a vessel assigned to a regular shipping service and the vessel called within an ongoing voyage at a UK port and left that UK port actually before the withdrawal date and arrived directly at an EU27 port as of the withdrawal date, i.e. without calling at any other port in a territory outside the customs territory of the Union or at any free zone in a Union port, and has not made any transhipments of goods at sea, those goods will keep their Union status.

Where Union goods are carried by sea on a non-regular shipping service vessel and that vessel leaves a UK port actually before the withdrawal date for an EU27 port and

arrives at that port as of the withdrawal date, a proof of the customs status of Union goods shall be accepted.

Where motorised road vehicles registered in an EU27 Member State are returning from the UK and re-enter the customs territory of the Union, Article 208 UCC IA applies. To goods in baggage carried by a passenger arriving from the UK Article 210 UCC IA applies. Where packaging with Union status is returning from the UK as of the withdrawal date, its Union status shall be considered as proven in accordance with the rules set out in Article 209 UCC IA.

7.4 Relief from import duty

Returned goods

Where Union goods were temporarily exported from the UK before the withdrawal and are re-imported in the EU27 as of the withdrawal date complying with the conditions established in Article 203 UCC, those goods shall be considered returned goods and hence be imported with total relief.

Where Union goods are brought from the EU27 to the UK before the withdrawal date and where then such goods move back to the EU27 as of the withdrawal date, the provisions on returned goods referred to in Article 203 UCC should apply if the economic operator can provide evidence that the Union goods:

- were transported to the UK prior to the withdrawal date; and
- return in an unaltered state in accordance with Article 203(5) UCC and Article 158 UCC DA.

The withdrawal of the UK as such, however, may not be used as special circumstances in order to exceed the three-year period referred to in Article 203(1) UCC.

The proof that the Union goods were brought to the UK prior to the withdrawal date should be provided in particular by the respective transport documents and, if necessary, accompanied by other relevant documents (e.g. a lease contract). Where applicable, a proof may be required that the state of the goods has not been altered.

Duty Relief Regulation

Concerning the duty relief for personal property belonging to natural persons transferring their normal place of residence from a third country to the Union, Article 5 of the Duty Relief Regulation[19] foresees a continuous period of at least twelve months at a normal place of residence outside the customs territory of the Union for duty-free treatment.

For that personal property as well as for other categories of goods covered by the Duty Relief Regulation, e.g. goods imported on the occasion of a marriage set out in Article 12 Duty Relief Regulation, the requested periods, e.g. the period of residence,

[19] Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty, OJ L 324, 10.12.2009, p. 23.

may include also the period prior to the UK's withdrawal from the EU for the purpose of application of that Regulation.

8. SPECIAL PROCEDURES

8.1 Transit

Union/common transit procedures

As of the withdrawal date, the UK accedes to the Convention on a common transit procedure[20] (CTC) in its own right, hence it may use common transit and continue to have access to the New Computerised Transit System (NCTS) as a Contracting Party to the CTC. Consequently, the transit operations ongoing at the time of the withdrawal shall continue in the NCTS.

Situations where goods were released for a transit procedure in the EU27 or in a common transit country or in the UK and are moving to, from or via the UK:

a) Goods moving under a transit operation from a customs office of departure in the EU27 or in a common transit country **to a customs office of destination in the UK**

Where goods are placed under a Union transit procedure in the EU27 or under a common transit procedure in a common transit country with destination in the UK and those goods are still located in the EU27 as of the withdrawal date, that Union transit procedure will continue as a common transit procedure in the UK. The customs office of entry in the UK will play the role of a customs office of transit, i.e. it shall request the relevant data from the customs office of departure and fulfil all tasks of a customs office of transit. At the external EU27 border an exit summary declaration (EXS) has to be lodged for security and safety purposes, unless the particulars necessary for risk analysis for security and safety purposes have already been provided with the transit declaration or the obligation to lodge a pre-departure declaration is waived under the UCC.

Where the goods are already located in the UK as of the withdrawal date, the transit movement will continue to the customs office of destination.

b) Goods moving under a transit operation **from a customs office of departure in the UK** to a customs office of destination in the EU27 or in a common transit country

Where goods are placed under a Union transit procedure in the UK with destination in the EU27 or in a common transit country and the goods are still located in the UK as of the withdrawal date, that Union transit procedure will continue as a common transit procedure to the destination in the EU27 or in the common transit country. The customs office of entry in the EU27 will play the role of a customs office of transit, i.e., it shall request the relevant data from the customs office of departure and fulfil all tasks of a customs office of transit. At the external EU27 border an ENS has to be

[20] OJ L 226, 13.8.1987, p. 2, as last amended by Decision 1/2017, OJ L 8, 12.1.2018, p 1.

lodged for security and safety purposes, unless the particulars necessary for the ENS have already been provided with the transit declaration or the obligation to lodge an ENS is waived under the UCC.

Where the goods are already located in the EU27 as of the withdrawal date, that transit procedure continues to the destination in the EU27 or in the common transit country.

c) Goods moving under a transit operation **via the UK**

Where goods move between a customs office of departure in an EU27 Member State or in a common transit country via the UK to a customs office of destination in an EU27 Member State or in a common transit country and those goods are still located in the EU27 or in a common transit country as of the withdrawal date, that transit procedure will continue as a common transit procedure in the UK. The customs office of entry in the UK and the customs office of entry in the respective Member State where the movement re-enters the customs territory of the Union, respectively, will play the role of customs offices of transit. They shall request the relevant data from the customs office of departure and fulfil all tasks of a customs office of transit. When leaving the EU27 territory (before entering to the UK) an EXS has to be lodged, unless the particulars necessary for risk analysis for security and safety purposes have already been provided with the transit declaration or the obligation to lodge a pre-departure declaration is waived under the UCC.

Where the goods have crossed the UK and re-entered the customs territory of the EU27 or of a common transit country before the withdrawal date, that transit operation will continue until its destination.

Where the goods covered by a transit declaration are crossing the UK at the time of the withdrawal or have crossed and left the UK, but have not yet re-entered the customs territory of the EU27 by the time of the withdrawal, the customs office of entry into the EU27 will act as a customs office of transit. It shall request the relevant data from the customs office of departure and fulfil all tasks of a customs office of transit. At the external EU27 border an ENS has to be lodged, unless the particulars necessary for the ENS have already been provided with the transit declaration or the obligation to lodge an ENS is waived under the UCC.

Customs authorities may, for a period up to one year after UK accession to the CTC, continue to accept existing forms of the guarantor's undertakings and guarantee certificates[21] subject to the necessary geographical adaptations made manually and approved by the guarantor (in case of guarantor's undertakings) or by the customs authorities themselves (in case of guarantee certificates). By the end of that period, the holder of that procedure must provide a new undertaking according to the modified model.

Where an enquiry or recovery procedure was started, but not ended at the time of withdrawal, it is continued in the NCTS.

[21] Annexes 32-01, 32-02 and 32-03 and Chapters VI and VII in Part II of Annex 72-04 to the UCC IA.

Electronic transport document (ETD) used as a transit declaration for goods carried by air or sea

Where goods are placed under an ETD transit procedure in the EU27 or in a common transit country with destination in the UK and the goods do not arrive in the UK before the withdrawal date that procedure will continue as an ETD common transit procedure to the UK airport of arrival as of that date.

Where goods are placed under an ETD transit procedure in the UK with destination in the EU27 or in a common transit country and the goods do not arrive in the EU27 or in the common transit country before the withdrawal date that procedure will continue to the airport in the EU27 or in a common transit country as of that date.

Where goods are carried by sea under an ETD transit procedure between the UK and the EU27 and the regular shipping service vessel has left the UK port before the withdrawal date and arrived directly at an EU27 port as of the withdrawal date, i.e. without calling at any other port in a territory outside the customs territory of the Union or at any free zone in a Union port, and has not made any transhipments of goods at sea, the transit procedure will continue to its EU27 destination.

Movement of goods under the TIR operations

The UK (as all other Member States) is already today a Contracting Party to the TIR Convention[22] in its own right. As of the withdrawal date, as the UK's customs territory will no longer be part of the customs territory of the Union, border formalities will apply to TIR operations. Although the UK will have access to the NCTS as a Contracting Party to the CTC, that access does not cover the use of the NCTS for TIR operations.

a) Goods moving under a TIR operation from a customs office of departure/entry in the EU27 **to a customs office of destination/exit in the UK**

Where goods are placed under a TIR procedure in the EU27 with destination/exit in the UK and those goods are still located in the EU27 as of the withdrawal date, that TIR procedure will, at the latest, be terminated for the Union territory at the customs office of the physical exit from the EU27. That office will become the customs office of destination/exit. It shall request the relevant data from the customs office of departure and fulfil all tasks of a customs office of destination/exit[23]. For the exit of the goods at the external border of the EU27, an EXS is to be lodged, unless the particulars necessary for risk analysis for security and safety purposes have already been provided or the obligation to lodge a pre-departure declaration is waived under the UCC.

Where the goods are already located in the UK or have left but not yet arrived in the UK as of the withdrawal date, the TIR movement will be subject to UK customs law and to the TIR Convention. However, the UK customs office of destination/exit will

[22] Customs Convention on the International Transport of Goods under cover of TIR carnets done at Geneva on 14 November 1975, OJ L 252, 14.9.1978, p. 2.

[23] In particular the tasks stipulated by Articles 278 and 279 UCC IA.

not be able to send any NCTS TIR messages to the customs office of departure/entry located in the EU27 and thus this office will not be able to discharge those TIR operations in the NCTS with the usual electronic messages. Therefore, the holders of the procedure will have to provide an alternative proof of terminating the TIR procedure, and the customs office will have to terminate and discharge the operation manually.

b) Goods moving under a TIR operation **from a customs office of departure/entry in the UK** to a customs office of destination/exit in the EU27

Where goods are placed under a TIR procedure in the UK with destination in the EU27 and the goods are still located in the UK as of the withdrawal date, that TIR movement cannot continue until the destination in the EU27. When the goods arrive at a customs office at the external EU27 border, the operation will be treated as any TIR operation coming from a third country and formalities established for those goods will apply[24]. An ENS has to be lodged at entry into the EU27 at the UK/EU27 border, unless the particulars necessary for the ENS have already been provided or the obligation to lodge an ENS is waived under the UCC. In the NCTS, the transit procedure started in the UK cannot be closed with the usual IE messages, the UK will have to write it off manually. A new NCTS TIR movement has to be lodged by the operator with the customs office at the external EU27 border which will act as a customs office of departure/entry for the TIR operation within the EU.

Where goods are placed under a TIR procedure in the UK with destination in the EU27 and the goods are already located in the EU27 as of the withdrawal date, that TIR movement can continue until the destination in the EU27. When the goods arrive at a customs office of destination/exit, the operation will be treated as any other TIR operation.

c) Goods moving under a TIR operation **via the UK**

Where goods move between a customs office of departure/entry in an EU27 Member State via the UK to a customs office of destination/exit in an EU27 Member and those goods are still located in the EU27, before crossing the UK, the following applies: as of the withdrawal date, that TIR procedure shall, at the latest, be terminated at the customs office of exit from the EU27. This office then becomes the customs office of destination/exit. The "new" customs offices of destination/exit will request the relevant data from the customs office of departure and fulfil all tasks of a customs office of destination/exit. For the exit of the goods at the external border of the EU27, an EXS is to be lodged, unless the particulars necessary for risk analysis for security and safety purposes have already been provided or the obligation to lodge a pre-departure declaration is waived under the UCC.

Where the goods have crossed the UK and re-entered the customs territory of the EU27 before the withdrawal date the TIR movement can continue until destination.

[24] TIR Handbook Section 1.2, Articles 273, 275 and 276 UCC IA, Article 184 UCC DA, Annex 10 (4) TIR Convention, Article 19 and Annex 2 TIR Convention.

Where the goods covered by a TIR Carnet are crossing the UK by the time of the withdrawal, the following applies: the goods arriving at the EU27 external border will have to be treated as any other TIR movement coming from a third country and formalities established for those goods will apply. An ENS has to be lodged before entering the customs territory of the EU27 again at the UK/EU27 border unless the particulars necessary for the ENS have already been provided or the obligation to lodge an ENS is waived under the UCC. However, in the NCTS, the TIR procedure started in the EU27 Member State could continue.

8.2 Special procedures other than transit

Customs warehousing (CW)

UK authorisations for customs warehousing are no longer valid in the EU27 as of the withdrawal date, including those which allow for the movement of goods between different customs warehouses. The same will apply to authorisations for movements of goods from customs warehousing facilities located in the EU27 to customs warehousing facilities located in the UK included in customs warehousing authorisations granted by the EU27 customs authorities (see Article 179(3) UCC DA).

Where goods stored in a UK customs warehouse are brought to the EU27 as of the withdrawal date, they have to fulfil the customs formalities established in the UCC for non-Union goods entering the customs territory of the Union from outside this territory (i.e. ENS, temporary storage declaration and customs declaration).

Where goods will be moving between a customs warehouse in the UK and another one in the EU27 and arrive in the EU27 within a short period before the withdrawal date without sufficient time to reach the destination, and their movement continues in the EU27, as of that date those goods are not covered by an authorisation valid in the EU27. Therefore, the concerned economic operator should discharge this procedure before the withdrawal date (e.g. by placing the goods under a subsequent customs procedure). Such subsequent procedure may be CW as well, provided that the goods are covered by a valid authorisation granted by the EU27 customs authorities. If such regularisation does not take place, the concerned goods would not comply with the obligations laid down in the customs legislation concerning the storage of such goods within the customs territory of the Union and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

If goods placed under CW located in the EU27 are brought to the UK before the withdrawal date (i.e. because the movement was authorised by the customs authorities) and such goods are located in the UK as of the withdrawal date, the CW procedure will be deemed to have been discharged (i.e. the goods would be considered to be taken out of the customs territory of the Union). The economic operator concerned should provide a proof, if requested by the customs authorities, showing that the goods were brought to the UK before the withdrawal date (e.g. a transport document).

Free zones

Where goods placed under a free zone procedure in the UK are brought to the EU27 as of the withdrawal date, they have to fulfil the customs formalities established in the

UCC for non-Union goods entering the customs territory of the Union from outside this territory (i.e. ENS, temporary storage declaration and customs declaration).

Temporary admission (TA)

Any authorisations granted by the UK customs authorities to place goods under TA before the withdrawal date will not be valid in the EU27 as of that date. The procedure for goods moved under those authorisations according to Article 219 UCC to the EU27 and located in the EU27 as of the withdrawal date should be discharged before that date, so the goods have to be a) re-exported, b) placed under a subsequent customs procedure, c) destroyed with no waste remaining, or d) abandoned to the State. Such subsequent procedure may be TA as well, provided that the goods are covered by a valid authorisation granted by the EU27 customs authorities. If such discharge does not take place, the concerned goods would not comply with the obligations laid down in the customs legislation concerning the TA of such goods within the customs territory of the Union and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

Where goods placed under temporary admission (TA) covered by an authorisation granted by the EU27 before the withdrawal date are located in the UK customs territory as of that date, and are brought from the UK to the EU27, they have to comply with the customs formalities established in the UCC for goods entering the customs territory of the Union from outside this territory (i.e. ENS, temporary storage declaration and customs declaration).

Where goods placed under TA in the EU27 are moved to the UK before the withdrawal date and such goods are located in the UK as of the withdrawal date, the TA procedure will be deemed to have been discharged (i.e. the goods would be considered to be taken out of the customs territory of the Union). The economic operator concerned should provide a proof, if requested by the customs authorities, showing that the goods were brought to the UK before the withdrawal date (e.g. a transport document).

End-use (E-U)

Any authorisations granted by the UK customs authorities to place goods under E-U before the withdrawal date will not be valid in the EU27 as of that date. The procedure for goods covered by those authorisations and located in the EU27 as of the withdrawal date should be discharged before that date, so the goods have to be a) taken out of the customs territory of the Union, b) used for the purposes laid down for the application of the duty exemption or reduced rate of duty, c) destroyed with or without waste remaining, or d) abandoned to the State. The same applies in the case of authorisations for Transfer of Rights and Obligations (TORO) and for movement of goods as established in Articles 218 and 219 UCC. If the discharge mentioned above does not take place, the concerned goods would not comply with the obligations laid down in the customs legislation concerning the E-U of such goods within the customs territory of the Union and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

Where goods placed under end-use (E-U) before the withdrawal date are located in the UK customs territory as of that date, and move therefrom to the EU27, they have to

comply with customs formalities applicable to any other third-country goods (i.e. ENS, temporary storage declaration and customs declaration).

Where goods placed under E-U in the EU27 are moved to the UK before the withdrawal date, and such goods are located in the UK as of the withdrawal date, the E-U procedure will be deemed to have been discharged (i.e. the goods would be considered to be taken out of the customs territory of the Union). The economic operator concerned should provide a proof, if requested by the customs authorities, showing that the goods were brought to the UK before the withdrawal date (e.g. a transport document).

Inward processing (IP)

Any authorisations granted by the UK customs authorities to place goods under IP before the withdrawal date will not be valid in the EU27 as of that date. The procedure for goods moved under those authorisations according to Article 219 UCC to the EU27 and located in the EU27 as of the withdrawal date should be discharged before that date, so the goods have to be a) re-exported, b) placed under a subsequent customs procedure, c) destroyed with no waste remaining, or d) abandoned to the State. Such subsequent procedure may be IP as well, provided that the goods are covered by a valid authorisation granted by the EU27 customs authorities. If such discharge does not take place, the concerned goods would not comply with the obligations laid down in the customs legislation concerning the processing of such goods within the customs territory of the Union and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

Where goods placed under inward processing (IP) before the withdrawal date are located in the UK customs territory as of that date, and are brought from the UK to the EU27, they have to comply with the customs formalities established in the UCC for goods entering the customs territory of the Union from outside this territory (i.e. ENS, temporary storage declaration and customs declaration).

In case of an IP EX/IM authorisation granted by UK customs authorities, if equivalent goods are exported before the withdrawal date, the equivalent amount of goods (raw material) should be brought to the customs territory of the Union with total relief from import duty before the withdrawal date. Otherwise, if the equivalent goods were brought to the customs territory of the Union as of the withdrawal date, they would be treated as third country goods entering the EU territory and the relevant import duties would apply.

Where goods placed under IP in the EU27 are moved to the UK before the withdrawal date, and such goods are located in the UK as of the withdrawal date, the IP procedure will be deemed to have been discharged (i.e. the goods would be considered to be taken out of the customs territory of the Union). The economic operator concerned should provide a proof, if requested by the customs authorities, showing that the goods were brought to the UK before the withdrawal date (e.g. a transport document).

Outward processing (OP)

Any authorisations granted by the UK customs authorities to place goods under OP before the withdrawal date will not be valid in the EU27 as of that date. If the

processed products resulting from goods placed under OP (authorisation granted by UK authorities) were not brought to the UK, but to the EU27, as of the withdrawal date, such processed products must comply with the customs formalities established in the UCC for non-Union goods brought to the customs territory of the Union. Such products cannot benefit from OP (i.e. the calculation of import duty cannot be done according to Article 86(5) UCC).

In case of an OP IM/EX authorisation granted by UK customs authorities, if equivalent goods are brought to the customs territory of the Union before the withdrawal date, the equivalent amount of goods (raw material) should be exported within the time limit of the authorisation. If such export does not take place, this would entail a non-compliance with the obligations laid down in the customs legislation concerning the OP procedure and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

9. GOODS TAKEN OUT OF THE CUSTOMS TERRITORY OF THE UNION

9.1 Pre-departure declaration

According to Article 263(3) UCC, the pre-departure declaration takes the form of either (i) a customs declaration for goods to be taken out of the customs territory of the Union; (ii) a re-export declaration; or (iii) an EXS. In most cases, the pre-departure declaration will be provided in the form of a customs declaration.

Where a pre-departure declaration was lodged and, where applicable, goods were released in the UK before the withdrawal date, that declaration will not be valid where those goods enter the EU27 as of the withdrawal date to exit via the EU27 and a new pre-departure declaration will be required for those goods in the form of a re-export declaration or of an EXS, which has to be lodged within the time-limits set out in the UCC DA.[25]

9.2 Export and re-export

Where Union goods are to be brought from the EU27 to the UK and the economic operator has no knowledge whether the goods are taken out of the EU27 before the withdrawal date, those goods may only be placed under the export procedure at any designated customs office in the EU27 as of the withdrawal date.

a) Export from the EU27 crossing the UK or with a customs office of exit in the UK

Where goods were released for export from the EU27 before the withdrawal date and are carried to the customs office of exit in the UK or cross the UK on their way to a customs office of exit in another EU27 Member State, there are the following possible scenarios:

i. Where the goods on their way to the UK customs office of exit are still located in the EU27 as of the withdrawal date, the previously foreseen customs office

[25] Article 244 UCC DA, as amended by Commission Delegated Regulation XXX (EU) 2019/334 of 19 December 2018, OJ L 60, 28.2.2019, p. 1.

of exit needs to be replaced by a customs office of exit located at the EU27 border (the diversion of the export movement is executed in ECS). This customs office will confirm the physical exit of the goods and send the respective message to the customs office of export. The same applies to goods on their way to an EU27 customs office of exit which are before crossing the UK still in the customs territory of the Union.

ii. Where the goods on their way to the UK customs office of exit are already located in the UK as of the withdrawal date, the UK will not be able to send any messages via ECS confirming the physical exit of the goods. The customs office of export located in the EU27 will have to close the movement in ECS based on an alternative proof. Economic operators need to provide alternative proofs to the customs office of export in order to close the movement.

iii. Where the goods already have crossed the UK on their way to a customs office of exit located in another Member State, there will be no impact on the current procedure (i.e. the customs office of exit at the external EU27 border will still confirm the physical exit of the goods to the customs office of export).

b) Export from the UK with a customs office of exit located in the EU27

iv. Where goods released for export from the UK with a customs office of exit in the EU27 are still located in the UK as of the withdrawal date, they will be subject to UK customs procedures when exiting the UK. When those goods enter the customs territory of the Union as of the withdrawal date, they will be treated as any other third country goods, i.e. an ENS shall be lodged at the first entry point of the EU27, the goods will have to be placed in temporary storage and, to reach the customs office of exit, they can be placed under external transit procedure. When the goods have reached the EU27 customs office of exit, then a re-export notification, a re-export declaration or an EXS at the EU27 customs office of exit should be lodged.

v. Where goods released for export in the UK via an EU27 customs office of exit are already located in the EU27 as of the withdrawal date and reach the envisaged EU27 customs office of exit, that customs office will not be able to confirm the physical exit of the goods to the UK customs office of export, as the UK will be disconnected from the ECS as of the withdrawal date. The customs office of exit should, upon request from the economic operator, issue a proof of exit (e.g. in the form of endorsement of the EAD).

10. CUSTOMS CONTROLS ON IPR, SAFETY, HEALTH AND THE ENVIRONMENT

Safety, health and environment

EU legislation requires goods imported in the EU, in transit or exported outside the EU to comply with a number of safety, health and environmental rules. It is the role of customs to check if goods entering or leaving the EU comply with all those rules. As of the withdrawal date, the goods brought to the customs territory of the Union from the UK or taken out from the customs territory of the Union to the UK will be subject to those rules.

The controls on the compliance with those rules can include documentary checks on import/export licences for certain goods as well as physical checks on the goods and

involves close cooperation and coordination with competent authorities who are responsible for the correct application of the relevant legislative requirements.

It is important to emphasise that customs will only release the goods once the relevant competent authority has fully completed their controls and this has been communicated to customs via the established procedures (e.g. authorisations, licences, electronic data communication system between customs and competent authority, etc.).

Import / export licences for certain goods

Economic operators engaged in shipments of goods which are subject to import/export licences or which may become subject to import/export licences as of the withdrawal date are reminded of the legal repercussions which need to be considered when the UK becomes a third country. They should confirm that their goods meet all licencing obligations in order to prepare for possible changes as a result of no deal.

Further details on the consequences of withdrawal in the field of import / export licences for certain goods can be found in the "Notice to Stakeholders on the Withdrawal of the UK and EU rules in the field of import / export licences for certain goods" published on 25 January 2018[26] and in sectorial preparedness notices, such as the "Notice to stakeholders – withdrawal of the United Kingdom and EU waste law"[27], the "Notice to stakeholders – withdrawal of the United Kingdom and EU rules in the field of export and import of hazardous chemicals"[28], and the "Notice to stakeholders – withdrawal of the United Kingdom and EU rules on trade in protected species of wild fauna and flora"[29]. All preparedness notices are available, in all official languages of the EU, on the "Brexit preparedness website"[30] of the Commission. On 19 December 2018, the Commission adopted a proposal for a Regulation[31] that would add the UK to the list of third countries covered by the EU General Authorisation 001 that lifts the requirements for individual licenses when trading in dual-use items.

Intellectual Property Rights

For the enforcement of IPR, as of the withdrawal date the EU rules on customs enforcement of intellectual property rights, and in particular Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights, no longer apply to the UK. Further details on the consequences of withdrawal in particular on the submission and validity of Union applications for action can be found in the "Notice to Stakeholders –

26 http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc_156568.pdf

27 https://ec.europa.eu/info/sites/info/files/file_import/waste_law_en_0.pdf

28 [to be added – will be finalised shortly]

29 https://ec.europa.eu/info/sites/info/files/file_import/trade_in_protected_species_en.pdf

30 https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en

31 https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1550165775514&uri=CELEX:52018PC0891

Withdrawal of the UK and EU rules in the field of customs enforcement of intellectual property rights".[32]

Drug Precursors

With regard to EU legislation laying down rules for the monitoring of trade between the EU and third countries, Council Regulation (EC) 111/2005 in drug precursors[33], certain operators will need to have obtain a licence/registration and for certain transactions import/export authorisations will be needed when trading with the UK.

European Commission
Directorate-General Taxation and Customs Union

[32] https://ec.europa.eu/taxation_customs/sites/taxation/files/notice-to-stakeholders-brexit-ip-enforcement-final_en.pdf

[33] OJ L 22, 26.1.2001, p. 1.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION

Brussels, 11 March 2019

GUIDANCE NOTE

WITHDRAWAL OF THE UNITED KINGDOM AND ASPECTS OF EXCISE IN RELATION TO MOVEMENT OF GOODS ONGOING ON THE WITHDRAWAL DATE

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

This guidance note addresses a situation where the UK becomes a third country on the withdrawal date without a withdrawal agreement and hence without a transition period provided for in the draft Withdrawal Agreement.[3]

As of the withdrawal date, the Union rules in the field of excise no longer apply to the UK. The UK will be treated as any other third country and the rules in the field of excise will apply as of that date. Furthermore, the UK will no longer have access to the EU excise IT systems.

This guidance note provides guidance on the consequences of this for the cross-border intra-EU movement of excise goods between the UK and EU27, which started before the withdrawal date and will end thereafter. This document covers as well as the related features (e.g. registration and authorisations of economic operators, administrative cooperation).

This document should be read in conjunction with the Guidance Note on customs issues.[4] Intra-EU cross-border movements of excise goods are subject to conditions and procedures specified in Directive 2008/118/EC and its related implementing regulations. Excise goods may be moved under duty suspension or while already released for consumption ("duty paid"). In the former case (duty suspension), registration and

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1 In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

2 A third country is a country not member of the EU.

3 Cf. Part four of 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 (OJ, C 66 I, 19.2.2019, p. 1).

4 See also the "Notices to stakeholders" published by the Commission services in the area of EU customs law (https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud).

authorisation of Economic Operators are pre-requisite; moreover, the procedures are computer-based and supported by pan-European IT systems called EMCS[5] for movement control and SEED[6] for registering excise economic operators.

The withdrawal of the UK may have an impact for Economic Operators involved in the intra-EU cross-border movements of excise goods to, from, and via the UK. In particular, consignors, consignees, and guarantors should prepare for a withdrawal of the UK without a withdrawal agreement and examine their new obligations and liabilities as of the withdrawal date.

1. OVERVIEW OF THE EXCISE CONSEQUENCES OF A "NO DEAL" WITHDRAWAL OF THE UK

1.1. General Principles

Excise goods that enter the excise territory of the EU from the UK or are dispatched or transported from the excise territory of the EU to the UK will respectively be treated as importation or exportation of excise goods in accordance with Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty.[7] Goods in transit crossing the UK land bridge between Ireland and the rest of the European Union will also be subject to additional customs formalities.

1.2. Pan-European IT system EMCS

The Excise Movement and Control System (EMCS) on its own will no longer be applicable to excise duty suspended movements of excise goods from the EU into the UK, but those movements will be treated as exports, where excise supervision ends at the place of exit from the EU. Movements of excise goods to the UK will therefore require an export declaration as well as an electronic administrative document (e-AD). In case of movements of excise goods from the UK to the EU customs formalities will have to be completed before a movement under EMCS can begin.

1.3. Customs Formalities

If economic operators wish to continue moving excise goods to the UK or receiving goods from the UK they will need to familiarise themselves with customs formalities and should be prepared to register with the customs authorities in the Member State where they are established, in order to be assigned an EORI number, if they do not already have one. Nothing prevents those economic operators submitting the required data for the registration (Annex 12-01 UCC-DA)[8] before the withdrawal date. Further details can be

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5 Excise Movement and Control System

6 System for Exchange of Excise Data

7 OJ L9, 14.1.2009, p. 12

8 Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 925/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L343, 29.12.2015, p. 1)

found in the "Notices to stakeholders" published by the Commission services.[9]

Stakeholders of excise movements should also consult the "Guidance note – Withdrawal of the United Kingdom and customs-related matters in case of no deal"[10], in particular for further details about Union status, import, export and transit.

2. ONGOING INTRA-UNION CROSS-BORDER MOVEMENTS

An **"ongoing movement"** is an intra-Union cross-border movement of excise goods that began but did not end before the withdrawal date.

2.1. General Principles

As of the withdrawal date:

- Unless explicitly stated otherwise in this document, UK authorisations and decisions are no longer valid in EU27. Consequently, any e-AD[11], SAAD[12] or fallback excise document approved by the UK competent authority before the withdrawal date is no longer a valid proof of Union status for the goods.

- No electronic messages can be exchanged between the UK and EU27 Member States via EU-managed communication platforms such as CCN; consequently, no EMCS message and no CCN Mail message may be exchanged between the UK and EU27 Member States.

- No new intra-EU movement of excise goods to or from the UK may start; a corollary is that no new e-AD or SAAD may be assigned for such movements.

- Unless explicitly stated otherwise in this document, all ongoing movements of excise goods from or to the UK will be considered as movements from or to a third country with all applicable consequences (e.g. status of non-Union goods, applicable customs procedures, excise duty claims, or seizing of the goods in case of non-compliance).

Attention is drawn to the fact that Economic Operators, who start intra-Union cross-border movement of excise goods to/from the UK just before the withdrawal date, run a significant risk as that they can no longer be ended appropriately as mentioned in the following sections. This will generate a significant administrative burden for all stakeholders, with a risk of irregularities. Moreover, if the excise goods arrive at destination before the

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9 https://ec.europa.eu/taxation_customs/uk_withdrawal_en; and https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud

10 https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud

11 electronic Administrative Document

12 Simplified Accompanying Administrative Document

withdrawal date, Economic Operators should submit the report of receipt or SAAD Copy 3 (where applicable) as soon as possible to ensure the excise movement is also completed before the withdrawal date.

Moreover, stakeholders involved in an excise movement to or from the UK that is at risk not to be completed before the withdrawal date should take contingency measures (e.g. contact exporters or importers where appropriate) in due time, taking into account the distance between the UK and the EU27 Member States.[13]

2.2. Excise goods under Duty Suspension

For ongoing movements of excise goods under duty suspension to, from or through the UK:

- Unless explicitly stated otherwise in this document,
    - Reports of Receipt or of Export cannot be electronically exchanged and fallback documents are no longer automatically mutually recognised between EU27 and the UK;
    - Ongoing EMCS movements will have to be closed by ad-hoc means (e.g. Manual Closure); alternate evidence of exit of the EU27 territory may be used to this purpose. See "Annex I – Recommended alternate evidence of exit"
    - The data in fallback Administrative Documents related to excise movements from or to the UK may not be inserted into EMCS as of the withdrawal date as the UK will no longer be a valid Member State in this IT system. This exceptional case can cause an excise movement to remain partly or totally outside of EMCS.
- As of the withdrawal date, the consignor authorisation required under Council Directive 2008/118/EC issued by the UK is no longer valid. However, if excise goods from the UK are in the EU27 territory on the withdrawal date, Member States should consider such movements as valid and they should be allowed to be closed normally[14].
- If excise goods from the UK have not entered the EU27 before the withdrawal date, then the excise movement cannot be completed normally. The excise goods would be subject to customs formalities applicable to imports and subject to excise duty at importation, or would need to be placed in a tax warehouse or a new EMCS movement started for the place of importation under the responsibility of a registered consignor authorised in the Member State of importation. Alternatively an external transit movement, as provided

[13] For instance, a movement between the UK and Malta can take more than one month.

[14] E.g. via a Report of Receipt from the EU27 consignee or via a Report of Export from the EU27 Member State of Export; this report of receipt/export cannot however be forwarded to the UK, which was still the Member State of Dispatch at the beginning of the excise movement.

under the Union transit procedure, to the Member State of Destination can be started, which might reduce delays and formalities. Note: in any case, the EU27 Member State of Destination will have to close in an exceptional way (e.g. interruption) the excise movement in EMCS that began in the UK before the withdrawal date.

- If excise goods moving to the UK are still in the EU27 territory on the withdrawal date, the excise movements will no longer have a valid consignee. The consignor would have to issue a change of destination to report that the goods would be
    - returned to the consignor, or
    - sent to a new consignee in EU27 authorised to receive the goods, or
    - exported; this of course would require the lodging of an export declaration
- If excise goods moving to the UK from the EU27 have entered the UK but the excise movement has not been closed before the withdrawal date then the latter cannot be closed normally in EMCS, since there is no longer a valid consignee for an intra-EU movement. However, Member States should treat such movements as valid and to allow to close them manually based on alternate evidence of exit of the EU27 (see above).
- Excise goods moving through the UK between two EU27 Member States (e.g. from Belgium to Ireland) on the withdrawal date will be subject to customs formalities, if and where applicable, but the excise movement can still be completed normally.[15] The excise movement's eAD or fallback document will be a sufficient proof of Union status to avoid payment of import duty in the EU27. Other customs formalities will be the same as for other goods.

  Note: as the UK will have acceded to the Convention on a Common Transit Procedure[16] by the withdrawal date, this should facilitate crossing the land bridge by allowing EMCS to be used in parallel with NCTS[17], which should reduce delays and formalities.

15 Council Directive 2008/118/EC article 17(1)

16 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Al11025

17 New Computerised Transit System

The table below summarises the possibilities for ongoing excise movements under duty suspension:

Movement	Goods location on withdrawal date	
	in UK	in EU27
From UK to EU27	Customs formalities; closure (e.g. interruption) of the EMCS movement by EU27 MS of Destination + possible new e-AD from place of importation	Consider excise movement as valid and to be closed normally
From EU27 to UK	alternate evidence of exit (evidence that goods are in the UK) to close the movement at EU27 MS of Dispatch	Change of destination
Through UK	Customs formalities to enter EU27 MS of Destination and eAD/FAD is proof of Union status	in MS of Destination: normal completion in other EU27 MS: Customs formalities to go through UK if applicable and eAD/FAD is proof of Union status

2.3. Excise goods already released for consumption (Duty Paid)

Business-to-Business

For intra-EU business-to-business movement of excise goods already released for consumption to or from the UK started before but still ongoing on or after the withdrawal date:

- EU excise procedures no longer apply; in particular, SAAD paper documents are no longer mutually recognised between EU27 and the UK;

- If excise goods from the UK are in the territory of the EU27 on the withdrawal date, Member States should treat such movements as valid and to allow the consignee to close them.

  Where the consignee of a duty paid business-to-business movement can prove that the goods entered the territory of the EU27 before the withdrawal date but has not submitted the SAAD to the Member State of destination before this date to close the movement, the competent authority of the EU27 Member State of Destination should accept the SAAD.

- If excise goods from the UK are still in the UK on the withdrawal date then they will be subject to import formalities on arrival in the EU27, including payment of excise duty at the border, unless the goods are placed under excise duty suspension within the EU27. A new excise movement would then have to be started from the Member State of importation to the Member State of Destination; alternatively an

external transit movement, as provided under the Union transit procedure, to the Member State of Destination can be started, which might reduce delays and formalities.

- If excise goods moving to the UK are in the territory of the EU27, other than the Member State of dispatch on the withdrawal date, Member States should apply the same approach to such movements as they apply to the exceptional export of goods released for consumption to other third countries. In particular, where goods under cover of an SAAD cross the territory of a Member State other than the Member State of dispatch, that Member State is recommended to continue to accept the SAAD as a proof of a valid excise movement and not to charge excise duty if export formalities are fulfilled and where the goods exit for the UK. This requires an export declaration to be lodged. The Commission also recommends that the Member State of dispatch refunds or remits the already paid excise duty if the consignor provides a proof of exit.
  The goods can also be returned to the location of Dispatch under cover of the SAAD.

- If excise goods moving to the UK are in the territory of the UK on the withdrawal date then proof of the end of the movement and payment of duty in the UK would have to be obtained that met the needs of the MS of Dispatch. **There is no legal obligation for a Member State to refund excise duty in the case of exported duty paid goods.** However, if the certified copy 3 of the SAAD was issued by the UK[18] before the withdrawal date this should be treated as a normal excise movement and requests for refund of excise duty in the Member State of dispatch should be treated normally. Other refunds would be at the discretion of the MS of Dispatch.

- Excise goods moving through the UK between two EU27 Member States (e.g. from Belgium to Ireland) may be subject to Customs formalities, although import duty should not be charged, since the SAAD is a valid proof of Union status.

  Note: as the UK will have acceded the Convention on a Common Transit Procedure by the withdrawal date, this should facilitate crossing the land bridge by allowing the use of NCTS[19], which should reduce delays and formalities.

Note: Refunds of excise duty may not be available due to lack of legally acceptable evidence and the absence of a common legal base for refunds of excise duty on the export of duty paid goods. Any remission or reimbursement of excise duty in these circumstances is a national matter.

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[18] Or other document issued by the UK and accepted by the Member State of Dispatch, certifying that the goods have been delivered and the chargeable excise duty has been paid in the UK

[19] New Computerised Transit System

Business-to-Consumer (Distance Selling)

The same principles as business-to-business apply mutatis mutandis to distance selling procedures for intra-EU cross-border distance sales of excise goods to or from the UK started before but still ongoing on or after the withdrawal date.

No distance sales of excise goods from or to the UK may start as of the withdrawal date.

2.4. EMCS ARC Follow Up

The "EMCS ARC Follow Up[20]" feature on the europa.eu website (to enter production in February 2019) will remain available for EMCS movements to/from the UK that started before the withdrawal date. However, as described above, no new information exchange to/from the UK can be received via trans-European IT systems for the movements that were not completed before the withdrawal date. Consequently, the status of such movements will not be updated in "EMCS ARC Follow Up" as of the withdrawal date.

For instance, if an ongoing movement to the UK is closed manually after the withdrawal date by the EU27 Member State of Dispatch then the manual closure will be visible only in the National Excise Application of this Member State and not in the common domain of EMCS. Therefore, the manual closure and the related status update of the movement will not be visible in EMCS ARC Follow Up. Member States are recommended to inform economic operators of this limitation and the unreliability of this information around the period of the withdrawal of the UK.

3. EXCISE DEBT, EXEMPTIONS AND GUARANTEE

As of the withdrawal date

- no guarantee will be automatically mutually recognised between the UK and EU27 Member States;
- no exemption will be automatically mutually recognised between the UK and EU27 Member States;
- no excise debts will be managed between the UK and EU27 Member States; and
- there will be no legal basis for calling upon guarantees held by UK consignors and/or consignees.

[20] EMCS ARC Follow Up is a feature that allows a user to enter an Administrative Reference Code and get limited information on the related EMCS movement (e.g. status, MS of Dispatch, MS of destination, list of main messages exchanged); it is a publicly available feature that requires neither identification nor authentication.

4. ECONOMIC OPERATORS REGISTRATION AND AUTHORISATION

4.1. Overview

This section applies only to the Economic Operators registered in SEED, i.e. authorised to perform intra-EU cross-border movements of excise goods under duty suspension.

4.2. Expiration of UK registrations and authorisations

As of the withdrawal date, the registration of Economic Operators established in the UK and their authorisation will be invalid. Consequently, they will not be able to send or receive new e-ADs (see also section **Error! Reference source not found.**). Member States are also recommended to check that e-ADs have not been accepted before Brexit, but with a dispatch date recorded in the future after the withdrawal date.[21] Member States should request that economic operators do not submit e-ADs with dispatch dates to after the withdrawal date.

No creation, update or new invalidations of registrations and authorisations of Economic Operators established in the UK will be possible after the withdrawal date.

The records of such Economic Operators and authorisations will be kept in SEED for 4 years so that ongoing movements can be closed manually and EU27 Member States' auditors and other staff can access UK Economic Operators data.

4.3. "Orphan" EU27 Tax Warehouses

As illustrated in the schema hereafter, it may happen that Tax Warehouses in the territory of EU27 are related only to Tax Warehouse Keepers established in the UK. In this case, such Tax Warehouses will be left "orphan" (i.e. with no authorised warehouse keepers established in EU27[22]) after the withdrawal date. This implies that such Tax Warehouses will actually not be able to operate intra-EU27 cross-border movements of excise goods under duty suspension.

Member States Administrations and Economic Operators are advised to take all necessary measures before the withdrawal date in order to avoid such situations. A measure can be to assign a valid warehouse keeper established in a EU27 Member State.

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[21] An e-AD can be submitted up to 7 days before the planned date of dispatch.

[22] After the withdrawal date, the record of the UK tax warehouse keepers will still be present in SEED but their authorisation will be invalid.

Before withdrawal date		After withdrawal date	
			
EU27 warehouse	UK authorised keepers only	EU27 warehouse	No EU27 authorised keeper

4.4. Access of the UK to SEED

As of the withdrawal date, no SEED data will be shared with the UK. In particular:

- SEED data will not been synchronised any longer with UK national IT systems,
- the officials of the UK administration will have no access to SEED on WEB (SEED's human user interface, which allows reading and modifying SEED data).

This implies that as of the withdrawal date, EU27's and the UK's view of each other's Economic Operators data will be the "snapshot" at the time of the withdrawal date, when the latest data synchronisation will have occurred.

5. REFERENCE DATA

5.1. Customs Office List and Excise Role

As of the withdrawal date all excise roles will be removed from all UK customs offices in the Customs Office List.

5.2. Code Lists

As of the withdrawal date, excise IT systems' code lists will not be shared with the UK.

6. STATISTICS

As of the withdrawal date, the officials of the UK administration will have no access to excise trans-European IT systems' operational statistics provided by the central IT component CS/MISE, neither via its user interface nor via consolidated reports.

7. AVAILABILITY MANAGEMENT

As of the withdrawal date, no excise IT system's unavailability will be shared between the UK and EU27.

8. ADMINISTRATIVE COOPERATION

As of withdrawal date, the Administrative Cooperation Regulation[23] and the Naples II Convention, no longer apply to the UK.

All pending administrative cooperation procedures on the withdrawal date on the basis of EU law between the EU27 Member States and the UK will be discontinued on the withdrawal date.

As of the withdrawal date, no information exchange will be possible between the UK and EU27 Member States via excise trans-European IT systems such as EMCS or CCN Mail. It will no longer be possible to make new administrative cooperation requests or to receive or to send replies to open administrative cooperation requests.

However, mutual assistance requests concerning excise issues may be possible between certain Member States and the UK using the OECD-Council of Europe Convention of 25.1.1988 on mutual administrative assistance in tax matters.[24]

European Commission
Directorate-General Taxation and Customs Union

[23] Council Regulation (EU) No 389/2012

[24] Administrative cooperation in the field of excise duties: OECD-Council of Europe Convention of 25.1.1988 on mutual administrative assistance in tax matters between the UK (not including Gibraltar) and the following MS of the EU27: BE, BG, CZ, DK, EE, ES, FR, EL, HU, LV, NL, PL, PT, RO, FI, SI, and SE. Member States are advised to examine the detail content of their act of accession to check for potential reservations.

ANNEX I – RECOMMENDED ALTERNATE EVIDENCE OF EXIT

A document in which the competent authority of the UK certify the delivery[25] or the entry into the UK territory in accordance with the rules and procedures applicable to that certification may be considered an appropriate alternate evidence of exit by EU27 Member States.

Moreover, EU27 Member States may also take into account anyone of the following pieces of evidence or a combination of them:

(i) a delivery note;

(ii) a document signed or authenticated by the economic operator who has taken the excise goods out of the customs territory of the Union certifying the exit of the goods;

(iii) a document in which the customs authority of a Member State or a third country certify the delivery in accordance with the rules and procedures applicable to that certification in that State or country;

(iv) records of goods supplied to ships, aircraft or offshore installations kept by economic operators;

(v) other alternative pieces of evidence acceptable to the authorities of the Member State of dispatch.

Competent authorities in each EU27 Member State perform their own assessment of the validity of such evidence.

[25] Even though fallback documents are no longer automatically mutually recognised between the UK and EU27, a fallback report of receipt certified by a UK competent authority may be considered an appropriate evidence of delivery by the competent authority of a EU27 Member State.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION
DIRECTORATE-GENERAL ENVIRONMENT
DIRECTORATE-GENERAL INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP, SMEs
DIRECTORATE-GENERAL TRADE
DIRECTORATE-GENERAL CLIMATE ACTION
DIRECTORATE-GENERAL MIGRATION AND HOME AFFAIRS
DIRECTORATE-GENERAL HEALTH AND FOOD SAFETY
SERVICE FOR FOREIGN POLICY INSTRUMENTS

Brussels, 25 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF IMPORT/EXPORT LICENCES FOR CERTAIN GOODS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders engaged in shipments of goods which are subject to import/export licences or which may become subject to import/export licences as of the withdrawal date are reminded of legal repercussions, which need to be considered when the United Kingdom itself becomes a third country.[4] [5]

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, for shipments of goods to/from third countries, including the United Kingdom, the following applies with regard to import/export licences:

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 For a movement of goods that has started before and ends on or after the withdrawal date, ("sailing goods"), the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on Customs related matters needed for an orderly withdrawal of the UK from the Union are available here: https://ec.europa.eu/commission/publications/position-paper-customs-related-matters-needed-orderly-withdrawal-uk-union_en.

5 This notice does not address rules based on the EURATOM Treaty.

1. IMPORT/EXPORT LICENCES REQUIRED UNDER UNION LAW

Different areas of Union law provide, for certain goods, a mandatory authorisation/approval/notification of shipments from a third country to the European Union or *vice versa* (hereafter "import/export licences"). In most cases, such licence is not required for intra-Union shipments, or the requirements differ. Usually, import/export licences are issued by national competent authorities, and compliance is controlled as part of customs controls in the European Union.

As of the withdrawal date, where the import/export of goods is subject to a licensing requirement under Union law, shipments from the EU-27 to the United Kingdom and *vice versa* will require such an import/export licence.

2. IMPORT/EXPORT LICENCES ISSUED BY THE UNITED KINGDOM AS AN EU MEMBER STATE ON THE BASIS OF UNION LAW

Union law may provide for the possibility of import/export licences to be issued by a Member State other than the Member State where the good enters or exits the European Union.

As of the withdrawal date, import/export licences issued by the United Kingdom as an EU Member State on the basis of Union law are no long valid for shipments to the EU-27 from third countries or *vice versa*.

3. GOODS CONCERNED

Import/export licences exist in a wide range of policy areas and for a wide variety of goods, including the following:

- Waste[6] (Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste[7]);
- Certain hazardous chemicals[8] (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[9]);
- Ozone-depleting substances[10] (Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer[11]);

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6 For more information, please refer to the thematic website: http://ec.europa.eu/environment/waste/shipments/index.htm.

7 OJ L 190, 12.7.2006, p. 1.

8 For more information, please refer to the thematic website: http://ec.europa.eu/environment/chemicals/trade_dangerous/index_en.htm.

9 OJ L 201, 27.7.2012, p. 60.

10 For more information, please refer to the thematic website: https://ec.europa.eu/clima/policies/ozone/ods_en.

- Mercury and certain mixtures of mercury[12] (Regulation (EU) No 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury[13]);

- Drug precursors[14] (Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors[15]);

- Genetically-modified organisms[16] (Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms[17]);

- Specimens of endangered species[18] (Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein[19]);

- Cultural goods[20] (Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods[21]);

- Rough diamonds[22] (Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds[23]);

- "Dual use goods"[24] (Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items[25]);

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11 OJ L 286, 31.10.2009, p. 1.

12 For more information, please refer to the thematic website: http://ec.europa.eu/environment/chemicals/mercury/regulation_en.htm.

13 OJ L 137, 24.5.2017, p. 1.

14 For more information, please refer to the thematic website: https://ec.europa.eu/taxation_customs/business/customs-controls/drug-precursors-control_en.

15 OJ L 22, 26.1.2005, p. 1.

16 For more information, please refer to the thematic website: https://ec.europa.eu/food/plant/gmo/transboundary_en.

17 OJ L 287, 5.11.2003, p. 1.

18 For more information, please refer to the thematic website: http://ec.europa.eu/environment/cites/index_en.htm.

19 OJ L 61, 3.3.1997, p. 1.

20 For more information, please refer to the thematic website: https://ec.europa.eu/taxation_customs/business/customs-controls/cultural-goods_en.

21 OJ L 39, 10.2.2009, p. 1.

22 For more information, please refer to the thematic website: http://ec.europa.eu/dgs/fpi/what-we-do/kimberley_process_en.htm.

23 OJ L 358, 31.12.2002, p. 28.

- Firearms and ammunition[26] (Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition[27]);

- Military technology and equipment[28] (Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment[29]);

- Certain goods which could be used for capital punishments/torture[30] (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[31]).

Stakeholders concerned may want to consider taking the necessary steps in order to prepare for possible changes.

The aforementioned websites of the Commission Services provide for general information concerning import/export licences. These pages will be updated with further information, where necessary.

European Commission

Directorate-General Taxation and Customs Union
Directorate-General Environment
Directorate-General Internal Market, Industry, Entrepreneurship and SMEs
Directorate-General Trade
Directorate-General Climate Action
Directorate-General Migration and Home Affairs
Directorate-General Health and Food Safety
Service for Foreign Policy Instruments

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[24] For more information, please refer to the thematic website: http://ec.europa.eu/trade/import-and-export-rules/export-from-eu/dual-use-controls/

[25] OJ L 134, 29.5.2009, p. 1.

[26] For more information, please refer to the thematic website: https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms_en.

[27] OJ L 94, 30.3.2012, p. 1.

[28] The EU Common Military List acts as a reference point for Member States' national military technology and equipment lists, but shall not directly replace them. The latest version of the EU Common Military List was published in OJ C 97, 28.3.2017, p. 1.

[29] OJ L 335, 13.12.2008, p. 99.

[30] For more information, please refer to the thematic website: http://ec.europa.eu/dgs/fpi/what-we-do/anti-torture_measures_en.htm.

[31] OJ L 200, 30.7.2005, p. 1.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION

Brussels, 4 June 2018
Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF CUSTOMS ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'[3].

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, intellectual property right owners are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangements that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules on customs enforcement of intellectual property rights, and in particular Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights,[4] no longer apply to the United Kingdom.

This has in particular the following consequences:

According to Section 1 of Chapter II of Regulation (EU) No 608/2013, an applicant can submit to the competent customs department a Union application requesting the customs authorities of that Member State and of one or more other Member States to take action with respect to goods suspected of infringing an intellectual property right. In the case of

1 Negotiations are ongoing with the United Kingdom with a view to reach a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 OJ L 181, 29.6.2013, p. 15.

a Union application, where the application is granted by the competent customs department in accordance with Articles 7 to 9 of Regulation (EU) No 608/2013, this decision takes effect in all Member States where action by the customs authorities are requested (Article 10(2)(b) of Regulation (EU) No 608/2013).

- Submission of Union applications: As of the withdrawal date, Union applications can no longer be submitted to the competent customs department of the United Kingdom.

  Union applications submitted in one of the EU-27 Member States remain valid in the EU-27 as of the withdrawal date even if the customs authorities of the United Kingdom are amongst the customs authorities requested to take action. Where a Union application was submitted in a Member State other than the United Kingdom, only requesting the customs authorities of that Member States and the customs authorities of the United Kingdom to take action, that application remains valid as a national application for the Member State in which it was submitted.

- Decisions concerning granted Union applications: As of the withdrawal date, decisions granting Union applications adopted by the competent customs department of the United Kingdom as a Member State on the basis of Union law are no longer valid in the EU-27.

  Decisions granting Union applications adopted in one of the EU-27 Member States remain valid in the EU-27 as of the withdrawal date even if the customs authorities of the United Kingdom are amongst the customs authorities required to take action. Where a Member State other than the United Kingdom adopted a decision granting a Union application, requiring only the customs authorities of that Member State and the customs authorities of the United Kingdom to take action, that decision remains valid for the Member State in which it was adopted.

The website of the Commission on taxation and customs union (https://ec.europa.eu/taxation_customs/business/customs-controls/counterfeit-piracy-other-ipr-violations/defend-your-rights_en) provides for general information on the rules on customs enforcement of intellectual property rights. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Taxation and Customs Union

EUROPEAN COMMISSION
DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION
DIRECTORATE-GENERAL FOR TRADE

Brussels, 4 June 2018

NOTICE TO STAKEHOLDERS
WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF CUSTOMS AND EXTERNAL TRADE

PREFERENTIAL ORIGIN OF GOODS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for economic operators.

Economic operators are reminded[4] of the legal repercussions concerning rules of origin for preferential treatment of goods, which need to be considered when the United Kingdom becomes a third country.[5]

In particular, as of the withdrawal date, **the EU preferential trade arrangements with third countries in the field of the common commercial policy and customs no longer apply to the United Kingdom**.[6]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 This notice complements the information on rules of origin in the "*Notice to stakeholders – withdrawal of the United Kingdom and EU rules in the field of customs and indirect taxation*" of 30 January 2018 (https://ec.europa.eu/info/brexit/brexit-preparedness_en).

5 For certain movements of goods that have started before and end on or after the withdrawal date, the EU aims at agreeing solutions with the United Kingdom in the withdrawal agreement on the basis of the EU's position on Customs related matters needed for an orderly withdrawal of the United Kingdom from the Union (https://ec.europa.eu/commission/publications/position-paper-customs-related-matters-needed-orderly-withdrawal-uk-union_en). The position paper also addresses administrative cooperation procedures on or after the withdrawal date between the EU-27 and the United Kingdom related to facts that have occurred prior to the withdrawal date (for example, mutual assistance related to the verification of proofs of origin). These arrangements will, however, only apply if a withdrawal agreement is signed and ratified by the EU and the UK before the withdrawal date.

1. BACKGROUND ON PREFERENTIAL ORIGIN

As part of the EU common commercial policy, the EU has **preferential trade arrangements** with third countries, such as Free Trade Agreements (FTAs) and the Generalised Scheme of Preferences[7] (GSP).[8]

Goods exported from the EU may benefit from preferential tariff treatment in an EU FTA partner country when they have EU preferential origin, i.e. they are either 'wholly obtained' in the EU or they are manufactured in the EU totally or partially from materials which are subject to working or processing fulfilling certain requirements ('product specific rules').

Goods imported into the EU from third countries with which the EU has preferential trade arrangements receive preferential tariff treatment if they comply with preferential rules of origin. For the purpose of determining the preferential origin of goods manufactured in a third country with which the EU has a preferential trade arrangement, EU originating inputs (materials and, in some arrangements, processing operations) incorporated in those goods are deemed to be originating in that third country (cumulation of origin).

The rules and procedures for the **determination of a preferential origin** are contained in the respective preferential trade arrangements and may vary depending on these arrangements.[9] For the determination of preferential origin, the EU is considered as a single territory, no distinction being made between Member States. Therefore, United Kingdom inputs (materials or processing operations) currently account as 'EU content' for the determination of the EU preferential origin of goods.

The **origin of the goods is certified** either by governmental authorities ('certificates of origin') or by the exporters themselves (subject to prior authorisation or registration), through 'declarations' or 'statements' on origin made out on commercial documents. The origin of goods may be subject to verification by the exporting party, upon request from the importing party.

To provide evidence of compliance with origin requirements, the exporter obtains from its suppliers supporting documentation (such as 'supplier's declarations') that

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6 In case an agreement is reached on transitional arrangements in a possible withdrawal agreement, the Union will notify the other parties to the international agreements (including agreements that provide for preferential tariff treatment) concluded by the Union, or by Member States on its behalf or by the Union and its Member States acting jointly that, during the transition period, the United Kingdom is to be treated as a Member State for the purposes of these agreements.

7 http://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/index_en.htm.

8 With regard to the issues set out in this notice (effect of United Kingdom input when determining the preferential origin for tariff treatment), the preferential tariff treatments in the Generalised Scheme of Preferences may be in practice less relevant than Free Trade Agreements. However, for the sake of completeness, both aspects are addressed in this notice.

9 A list of all EU preferential arrangements with third countries is available here: https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/general-aspects-preferential-origin/arrangements-list_en.

allow for the **traceability** within the EU of the production processes and supplies of materials until the export of the final product.[10]

2. CONSEQUENCES OF THE WITHDRAWAL OF THE UNITED KINGDOM

As of the withdrawal date, the United Kingdom becomes a third country to which the EU preferential trade arrangements with third countries cease to apply. United Kingdom inputs (materials or processing operations) are considered as 'non-originating' under a preferential trade arrangement, for the determination of the preferential origin of goods incorporating those inputs. This means the following:

- **Goods exported from the EU:**

  As of the withdrawal date, an EU FTA partner country may consider that goods having an EU preferential origin before the withdrawal date no longer qualify at the moment of their importation in that third country, due to United Kingdom inputs not being considered as 'EU content'.

  As of the withdrawal date, in case of verification of the origin of goods exported to a third country under preferential treatment, the exporters in the EU-27 may, upon request from that third country, have to prove the EU origin of the goods taking into account that United Kingdom inputs no longer account as 'EU content'.

- **Goods imported into the EU:**

  United Kingdom inputs incorporated in goods obtained in third countries with which the EU has preferential trade arrangements and imported into the EU as of the withdrawal date will be 'non-originating', in particular in a context of cumulation of origin with the EU.

  As of the withdrawal date, in case of verification of the origin of goods imported into the EU, exporters in third countries may have to prove the EU preferential origin of the imported goods.

3. ADVICE TO STAKEHOLDERS

- **Goods exported from the EU:**

  To address the abovementioned consequences, EU-27 exporters and producers, intending to claim preferential tariff treatment in an EU FTA partner country as from the withdrawal date, are advised to:

  - treat any United Kingdom inputs as 'non-originating' when determining the EU preferential origin of their goods; and

  - take appropriate steps to be able to prove the EU preferential origin of their goods, in case of subsequent verification, without taking account of any United Kingdom inputs as 'EU content'.

[10] To this end, EU exporters and producers use dedicated accounting systems, records and supporting documents, in their possession in the EU.

- **Goods imported into the EU:**

  EU-27 importers are advised to ensure that the exporter is able to prove the EU preferential origin of the imported goods, taking account of the consequences of the withdrawal of the United Kingdom.

The websites of the Commission on taxation and customs union (https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/general-aspects-preferential-origin_en) and external trade (Market Access Database) (http://madb.europa.eu/madb/rulesoforigin_preferential.htm) provide more information on the preferential origin of goods. The relevant pages will be updated with further information, whenever available.

European Commission
Directorate-General Taxation and Customs Union
Directorate-General for Trade

EUROPEAN COMMISSION
DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION

Brussels, 11 September 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF VALUE ADDED TAX

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement[1] establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').[2] The United Kingdom will then become a 'third country'.[3]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, taxable persons are reminded of legal repercussions in the field of value added tax (VAT), which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of VAT, and in particular Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax[4] (hereafter the 'VAT Directive') and Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State[5], no longer apply to the United Kingdom. This has in particular the following consequences concerning the treatment of taxable transactions (see below, 1) and VAT refunds (see below, 2):[6] [7]

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1 Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

2 Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

3 A third country is a country not member of the EU.

4 OJ L 347, 11.12.2006, p. 1.

5 OJ L 44, 20.2.2008, p. 23.

6 This notice complements the "*Notice to stakeholders – withdrawal of the United Kingdom and EU rules in the field of customs and indirect taxation*", published on 30 January 2018.

1. VAT PAYMENTS AND LIABILITY

1.1. Treatment of supplies of goods between the EU and the United Kingdom

1.1.1. EU rules for VAT payments/returns for cross-border supplies of goods

EU VAT legislation provides for different regimes of VAT payments/returns for cross-border supplies/acquisitions and movements to/from Member States and third countries.

As of the withdrawal date, the EU rules for cross-border supplies and movements between EU Member States will no longer apply in the relations between EU-27 Member States and the United Kingdom (e.g. no intra-Community supplies and acquisitions; no distance sales regime for goods to and from the United Kingdom).

Instead, as of the withdrawal date, supplies and movements of goods between the EU and the United Kingdom are subject to the VAT rules on imports and exports. This implies that goods which are brought into the VAT territory of the EU from the United Kingdom or are to be taken out of that territory for transport to the United Kingdom, will be subject to customs supervision and may be subject to customs controls in accordance with Regulation (EU) No 952/2013 of 9 October 2013 laying down the Union Customs Code.[8]

- VAT will be due at the **importation** in the EU[9], at the rate that applies to the supplies of the same goods within the EU.[10] VAT will be payable to customs authorities at the time of importation, unless the Member State of importation allows to enter import VAT in the periodical VAT return of the taxable person.[11] The taxable amount is based on the value for customs purposes, but increased by (a) taxes, duties, levies and other charges due outside the Member State of importation, and those due by reason of importation, excluding the VAT to be levied, and (b) incidental expenses, such as commission, packing, transport and insurance costs, incurred up to the first place of destination within the territory

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7 In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom concerning supplies that took place prior to the end of the transition period. See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf and the "joint statement" from the negotiators of the EU and of the United Kingdom Government presented on 19 June 2018 (https://ec.europa.eu/commission/brexit-negotiations/negotiating-documents-article-50-negotiations-united-kingdom_en).

8 OJ L 269, 10.10.2013, p. 1.

9 Article 2(1)(d) of the VAT Directive.

10 Article 94(2) of the VAT Directive.

11 Article 211 of the VAT Directive.

of the Member State of importation as well as those resulting from transport to another place of destination within the EU, if that other place is known when the chargeable event occurs.[12]

The customs **export** procedure will be obligatory for Union goods leaving the EU customs territory. First the exporter will present the goods and a pre-departure declaration (customs declaration, re-export declaration, exit summary declaration) at the customs office responsible for the place where he is established or where the goods are packed or loaded for export shipment (customs office of export). Subsequently, the goods will be presented at the customs office of exit which may examine the goods presented based on the information received from the customs office of export and will supervise their physical exit out of the EU customs territory.

Goods will be exempt from VAT if they are dispatched or transported to a destination outside the EU.[13] The supplier of exported goods must be able to prove that the goods have left the EU. In this regard, Member States generally base themselves on the certification of exit given to the exporter by the customs office of export.

1.1.2. Advice to taxable persons for preparing for a withdrawal without withdrawal agreement

Taxable persons in the EU should take all necessary steps to ensure that they can provide all necessary evidence with regard to their intra-Community supplies and intra-Community acquisitions to/from the United Kingdom before the withdrawal date, and with regard to all other supplies that they have made in, or received from, the United Kingdom before the withdrawal date.

Taxable persons may have to familiarize themselves with customs procedures and formalities regarding import and export of goods.[14]

1.2. Treatment of supplies of services between the EU and the United Kingdom

1.2.1. EU rules on VAT for cross-border supplies of services

EU VAT legislation provides for different regimes of VAT payments/returns for cross-border supplies of services to/from Member States and third countries. The place of supply of services depends on various factors, such as the nature of the service, whether

[12] Articles 85 and 86 of the VAT Directive.

[13] Article 146 of the VAT Directive.

[14] See Notice to stakeholders – Withdrawal of the United Kingdom and EU rules in the field of customs and indirect taxation, 30 January 2018.

or not the person receiving the service is a taxable person, the place where the service is carried out, etc.

The withdrawal of the United Kingdom may have an impact for taxable persons established in the United Kingdom who supply services in the EU from the withdrawal date and for taxable persons established in the EU who supply services in the United Kingdom from the withdrawal date.

In particular, Member States are permitted to require the designation of a tax representative if the taxable person supplying the services is established in a third country that does not provide administrative cooperation and recovery assistance for VAT.[15] As of the withdrawal date, this requirement may apply to taxable persons established in the United Kingdom.

Taxable persons established in the United Kingdom applying the Mini One-Stop Shop (MOSS) scheme for their Business-to-Consumer supplies of telecom, broadcasting and electronic services to customers in the EU will have to change their MOSS identification (see point 1.3. below).

1.2.2. Advice to taxable persons for preparing for a withdrawal without withdrawal agreement

Taxable persons established in the EU should take all necessary steps to ensure that they can provide all necessary evidence with regard to the supplies of services before the withdrawal date that they have made in, or received from, the United Kingdom before the withdrawal date.

Taxable persons established in the United Kingdom will have to examine whether new liability rules will apply to them with regard to their supplies of services that take place within the EU after the withdrawal of the United Kingdom.

1.3. Submission of VAT returns through the Mini One-Stop Shop scheme

1.3.1. The EU Mini One-Stop Shop scheme

In accordance with Article 58 of the VAT Directive, VAT on Business-to-Consumer supplies of telecom, broadcasting and electronic services are subject to VAT in the Member State of consumption.

Articles 358 to 369k of the VAT Directive set the legal framework for special schemes for non-established taxable persons supplying telecommunications services, broadcasting or electronic services to non-taxable persons in the EU – the Mini One-Stop Shop (**MOSS**) schemes. MOSS allows a taxable person to submit a MOSS VAT return for each calendar quarter to the Member State of identification.

[15] Article 204 of the VAT Directive.

That Member State of identification splits the MOSS VAT return by Member State of consumption and forwards the details to the various Member States of consumption.

The VAT Directive provides for a MOSS scheme for taxable persons established in a Member State different from the Member State of consumption ("Union MOSS scheme"), and for a MOSS scheme for taxable persons established in a third country ("non-Union MOSS scheme").

1.3.2. Advice to taxable persons for preparing for a withdrawal without withdrawal agreement[16]

a) Taxable persons established in an EU-27 Member State or in a third country, identified for MOSS in the EU-27 and making Business-to-Consumer supplies of telecom, broadcasting and electronic services to customers in the United Kingdom:

These taxable persons are liable to pay the VAT for services provided until and including the day before the withdrawal date (i.e. until and including 29 March 2019) in accordance with the VAT Directive. For the services provided in the United Kingdom before the withdrawal date, the United Kingdom must still be considered a Member State of consumption. Thus, MOSS VAT returns for the first calendar quarter of 2019 should also cover services provided in the United Kingdom up to the withdrawal date, even though taxable persons are to submit those MOSS VAT returns after the withdrawal date.

b) Taxable persons identified for MOSS in the United Kingdom and making Business-to-Consumer supplies of telecom, broadcasting and electronic services to customers in the EU-27 Member States:

These taxable persons are liable to pay the VAT for services in accordance with the VAT Directive. In the absence of a withdrawal agreement, in order to facilitate the submission of returns to the EU-27 Member States for the services supplied from 1 January 2019 until and including the day before the withdrawal date (i.e. until and including 29 March 2019), these taxable persons should take the following measures:

[16] In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom concerning the VAT returns submitted in accordance with the rules on the mini one-stop shop. See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf and the "joint statement" from the negotiators of the EU and of the United Kingdom Government presented on 19 June 2018 (https://ec.europa.eu/commission/brexit-negotiations/negotiating-documents-article-50-negotiations-united-kingdom_en).

- **Taxable persons established in a third country and identified for MOSS in the non-Union MOSS scheme in the United Kingdom:** These taxable persons should move their MOSS-identification from the United Kingdom to an EU-27 Member State. An early move – even before the first quarter of 2019 – may facilitate future corrections of MOSS returns submitted before the withdrawal date.[17]

- **Taxable persons established in a third country with a fixed establishment in the United Kingdom and in at least one EU-27 Member State:** If these taxable persons have opted for identification for the **Union MOSS scheme** in the United Kingdom and maintain their fixed establishment in the United Kingdom, these taxable persons are in principle bound by their decision for the calendar year concerned and the two calendar years following (in accordance with the second paragraph of Article 369a of the VAT Directive). However, as they cannot remain identified for the Union MOSS scheme in the United Kingdom as from the withdrawal date, they should move their identification for the Union MOSS scheme from the United Kingdom to a Member State of the EU-27 with effect from the withdrawal date.[18]

- **Taxable persons established only in the United Kingdom:** If these taxable persons have opted for identification for the Union MOSS scheme and maintain their fixed establishment in the United Kingdom, and want to continue to use the MOSS scheme, they should register for the **non-Union MOSS scheme** in a Member State of the EU-27 with effect from the withdrawal date, in accordance with Article 359 of the VAT Directive, since they will be considered as taxable persons not established within the EU as of the withdrawal date.

If, in accordance with the advice given in section 1.3.2., taxable persons currently identified for MOSS in the United Kingdom become identified for MOSS in one of the EU-27 Member States, they could report their MOSS transactions of the first quarter of 2019 to customers in the EU-27 in the first MOSS VAT return which they submit in an EU-27 Member State in April 2019, in accordance with Article 369f of the VAT Directive.

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17 Within the EU, corrective returns can be submitted until 3 years following the tax period concerned (Article 61(2) of Council Implementing Regulation (EU) No 282/2011).

18 Article 369a, second paragraph, of the VAT Directive provides that these taxable persons are bound by their decision for the calendar year concerned and the two calendar years following. This implies that if their decision to identify for the Union MOSS scheme in the United Kingdom was taken before 2017, these taxable persons could already move their identification for the Union MOSS scheme to an EU-27 Member State with effect before the withdrawal date.

2. VAT REFUNDS

2.1. EU rules for VAT refunds

EU VAT legislation provides for different regimes of VAT refunds to taxable persons not established in the Member State in which they have paid VAT. This depends on whether the taxable person is established in the EU or in a third country.

a) Taxable persons established in the EU:

According to Articles 170 and 171 of the VAT Directive, taxable persons established in a Member State can request a Member State where they are not established to refund the VAT paid there. The following procedure applies:

- The refund request must be submitted electronically to the Member State of establishment at the latest on 30 September of the year following the refund period (Article 15 of Directive 2008/9/EC);

- The refund request must be forwarded by the Member State of establishment to the Member State of refund within 15 days (Article 48(1) of Council Regulation (EU) No 904/2010[19]);

- The Member State of refund must take a decision on the refund request within 4 months (Article 19(2) of Directive 2008/9/EC); if the refund application is approved, the refund must be paid within 4 months + 10 working days (Article 22 of Directive 2008/9/EC); these periods can be prolonged if the Member State of refund asks additional information (Article 21 of Directive 2008/9/EC).

b) Taxable persons established outside the EU:

According to the Thirteenth Council Directive 86/560/EEC of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in Community territory[20] (hereafter '13th VAT Directive'), VAT refunds by Member States to taxable persons established outside the EU are subject to the following conditions:

- The request must be submitted directly to the Member State from which the refund is requested, in accordance with the arrangements determined by that Member State (Article 3(1) of the 13th VAT Directive);

[19] Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax, OJ L 268, 12.10.2010, p. 1.

[20] OJ L 326, 21.11.1986, p. 40.

- The VAT refund may be subject to a reciprocity condition (meaning that the refund is only permitted if VAT refund is also granted by the third country to taxable persons established in the Member State concerned (Article 2(2) of the 13th VAT Directive);

- Each Member State may require the taxable person established in a third country to designate a tax representative in order to obtain the VAT refund (Article 2(3) of the 13th VAT Directive).

2.2. Advice to taxable persons for preparing for a withdrawal without withdrawal agreement[21]

a) Taxable persons established in the EU-27 and requesting refunds from the United Kingdom:

These taxable persons are entitled to a refund from the United Kingdom for the period until and including the day before the withdrawal date (i.e. until and including 29 March 2019). There is currently no certainty about the future UK-regime for VAT refunds to taxable persons established outside the United Kingdom. Therefore, taxable persons established in the EU-27 should consider requesting refunds from the United Kingdom while the United Kingdom is still a Member State, provided that the conditions set out in the VAT Directive and Directive 2008/9/EC are fulfilled.

b) Taxable persons established in the United Kingdom and requesting refunds from an EU-27 Member State:

As of the withdrawal date, requests by these taxable persons for a refund from the EU-27 Member States follow the procedural EU rules for taxable persons established outside the EU (see above).

The website of the Commission on taxation and customs union (https://ec.europa.eu/taxation_customs/index_en) provides general information concerning the consequences of the possible withdrawal in the field of VAT. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Taxation and Customs Union

[21] In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom to ensure the refund of VAT in relation to transactions prior to the end of the transition period in situations where the refund request could not be submitted by the taxable person or forwarded by his residence State before the end of the transition period. See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf and the "joint statement" from the negotiators of the EU and of the United Kingdom Government presented on 19 June 2018 (https://ec.europa.eu/commission/brexit-negotiations/negotiating-documents-article-50-negotiations-united-kingdom_en).

EUROPEAN COMMISSION
DIRECTORATE-GENERAL TRADE

Brussels, 21 March 2019

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF DUAL USE EXPORT CONTROLS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')[1] the United Kingdom will be a 'third country'.[2]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the Withdrawal Agreement,[3] as of the withdrawal date, the EU rules on dual-use export controls, and in particular, Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual- use items[4] (the "Regulation") will no longer apply to the United Kingdom. This has in particular the following consequences:[5]

1. DUAL-USE EXPORTS TO THE UNITED KINGDOM

The Regulation provides for the control of the export, brokering and transit of dual-use items. As of the withdrawal date, controls under the Regulation will apply in relation to the United Kingdom as third country.

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1 In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

2 A third country is a country not member of the EU.

3 Cf. Part four of 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 (OJ, C 66 I, 19.2.2019, p. 1).

4 OJ L 134, 29.5.2009, p. 1.

5 This notice complements the "Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of import/export licences for certain goods" of 25 January 2018.

Please note: Considering that the United Kingdom is a party to relevant international treaties and a member of international non-proliferation regimes, and applies proportionate and adequate controls, the European Commission adopted on 19 December 2018 a proposal for an amendment to the Regulation adding the United Kingdom to the list of destinations covered by EU General Authorisation (EU001).[6]

The proposal, once adopted by the co-legislators, will simplify exports of most dual-use items to the United Kingdom, while ensuring a uniform and consistent application of controls throughout the EU and preserving international and EU security.

2. EXPORT LICENSES ISSUED BY THE UNITED KINGDOM AS AN EU MEMBER STATE

As of the withdrawal date, export licences issued by the United Kingdom as an EU Member State under the Regulation are no longer valid for exports of dual-use items from the EU-27 to third countries.[7] Rather, such exports of dual-use items from the EU-27 to third countries are going to require, as of the withdrawal date, a licence issued by a competent authority of one of the EU-27 Member States, in accordance with Article 9 of the Regulation.

3. INTRA-EU TRANSFER LICENCES TO THE UNITED KINGDOM ISSUED BEFORE THE WITHDRAWAL DATE

According to Article 22 of the Regulation, certain very sensitive dual-use items, listed in Annex IV to the Regulation, are subject to intra-EU transfer controls. As of the withdrawal date, the export of these items will be subject to authorisation under the terms and conditions of the Regulation.

However, intra-EU transfer licences issued by one of the EU27 Member States for transfers to the United Kingdom issued before the withdrawal date should be considered as valid licences for exports to the United Kingdom as of the withdrawal date, and until the validity of the licence expires.

The website of the Commission (http://ec.europa.eu/trade/import-and-export-rules/export-from-eu/dual-use-controls/) provides general information concerning dual-use export control. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Trade

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6 COM(2018) 891 final.

7 See also section 2 of the "Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of import/export licences for certain goods" of 25 January 2018.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION
DIRECTORATE-GENERAL TRADE

Brussels, 25 March 2019

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON CUSTOMS DEBT AND CUSTOMS TARIFFS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. On 22 March 2019, the European Council (Article 50) decided, in agreement with the United Kingdom, and in the event that the Withdrawal Agreement is approved by the House of Commons by 29 March, to extend the 2-years period provided for in Article 50(3) of the Treaty on European Union until 22 May 2019.

In the event that the Withdrawal Agreement is not approved by the House of Commons by 29 March 2019, the European Council decided to extend the period provided for in Article 50(3) of the Treaty on European Union until 12 April 2019. This means that as from 13 April 2019, 00:00h (CET) ('the withdrawal date') the United Kingdom may be a 'third country'.[1]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[2] as of the withdrawal date the EU rules on customs debts for non-Union goods, as set out in particular in Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ("UCC")[3] will apply to goods from the United Kingdom. This has in particular the following consequences:

[1] A third country is a country not member of the EU.

[2] Cf. Part four of 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 (OJ, C 66 I, 19.2.2019, p. 1).

[3] OJ L 269, 10.10.2013, p. 1.

Please note: this notice does <u>not</u> address:

- **non-tariff aspects in relation to the entry and import of goods, export of goods to the United Kingdom[4] such as import and export licences,[5] specific import conditions for industrial goods (such as medicinal products[6]) and other commodities (such as waste[7]), and sanitary[8] (in particular of live animals,[9] including pets[10]) and phytosanitary[11] controls;**

- **aspects in relation to value-added tax[12] and excise duties[13];**

- **aspects in relation to trade-defence measures, in particular anti-dumping and anti-subsidy measures and other tariff measures provided for in the agricultural sector;**

- **specific rules for individual travellers.[14]**

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4 The webpage of the Commission on external trade on the Market Access Database (http://madb.europa.eu/madb/rulesoforigin_preferential.htm) will be updated with relevant information, whenever available.

5 See the "notices to stakeholders" published here: https://ec.europa.eu/info/sites/info/files/file_import/import_and_export_licences_en.pdf

6 See the "notices to stakeholders" published here: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#sante

7 See the "notices to stakeholders" published here: https://ec.europa.eu/info/sites/info/files/file_import/waste_law_en_0.pdf

8 See the "notices to stakeholders" published here: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#sante

9 See the "notices to stakeholders" published here: https://ec.europa.eu/info/sites/info/files/file_import/movements_of_live_animals_en.pdf

10 See the "notices to stakeholders" published here: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#travel

11 See the "notices to stakeholders" published here: https://ec.europa.eu/info/sites/info/files/file_import/plant_health_en.pdf

12 See the "notices to stakeholders" published here: https://ec.europa.eu/info/sites/info/files/value-added-tax_en.pdf

13 See the "guidance note" published here: https://ec.europa.eu/info/files/guidance-excise-ongoing-movements-goods_en

14 See the "notices to stakeholders" published here: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#travel

1. CUSTOMS DEBT - GENERAL

Depending on the customs procedure chosen[15], a customs debt on import is incurred through the placing under one of the customs procedures of non-Union goods liable to import duty. In particular, according to Article 77 UCC, a customs debt on import shall be incurred through the placing of non-Union goods liable to import duty under the customs procedure of release for free circulation in the Union.

The customs debt is defined by Article 5(18) UCC as the obligation on a person to pay the amount of import or export duty which applies to specific goods under the customs legislation in force.

The amount of import duty resulting from a customs debt is calculated on the basis of four main elements:

- The customs value of the goods, in case of *ad valorem* import duty, or specific quantities, in case of specific import duty, serving as taxable amount;
- The tariff classification of the goods in the Combined Nomenclature laid down in Council Regulation (EEC) No 2658/87;
- The non-preferential origin of the goods, for the application of non-preferential tariff measures (e.g. a GATT tariff quota or an anti-dumping duty); and/or the preferential origin of the goods, for the application of preferential tariff measures contained in agreements, concluded by the Union with certain third countries or territories (Free Trade Agreements), or adopted unilaterally by the Union in respect of certain third countries or territories (e.g. the Generalised Scheme of Preferences - GSP); and
- The rates of import duty to apply to the taxable amount (customs value or quantity), which depend on the tariff classification of the goods and their origin.

2. CUSTOMS VALUE OF THE GOODS

According to Article 70 UCC[16] the primary basis for the customs value of a good is its transaction value, which is the price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted where necessary.

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[15] See the "notices to stakeholders" published here: https://ec.europa.eu/info/sites/info/files/file_import/customs_and_indirect_taxation_en.pdf. For issues arising around the withdrawal date in case of no deal, please refer to the guidance note on Customs matters (https://ec.europa.eu/info/files/guidance-customs-matters-case-no-deal_en) as well the guidance note on Excise for ongoing movements of goods (https://ec.europa.eu/info/files/guidance-excise-ongoing-movements-goods_en).

[16] The full list of the legal references to customs value can be found in the compendium on customs value: https://ec.europa.eu/taxation_customs/sites/taxation/files/customs_valuation_compendium_2018_en.pdf

To determine the customs value of the good, that price shall be supplemented - where not already included in the transaction value - by a number of adjustments, which include, inter alia, the following:

- Commissions and brokerage, except buying commissions;
- Costs of containers and packing;
- The value of certain goods and services supplied by the buyer in connection with the production and sale for export of the imported goods, free of charge or at reduced cost ("assists");
- Royalties and licence fees related to the goods that the buyer must pay as a condition of sale of the goods;
- The costs of transport and insurance and the loading and handling charges associated with the transport of the good, up to the place where it is brought into the customs territory of the EU.[17]

On the other hand, a number of elements do not need to be included in the customs value like, inter alia, the cost of transport or various charges incurred on the goods after their entry into the customs territory of the Union, charges for interest under certain financing arrangements, charges for the right to reproduce the goods, buying commissions, import duties or other charges payable on import.

For details, please refer to the guidance on customs valuation: https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/customs/customs_code/guidance_valuation_en.pdf

3. CUSTOMS TARIFF

Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff[18] sets out the applicable tariffs for non-Union goods. These are also published and constantly updated in the multilingual database TARIC.[19] To establish the third country duty rate goods have to be classified (Article 57 of Regulation (EU) No 952/2013) in the Combined Nomenclature (CN) to determine the CN headings and subheadings.

For example:

- Motor cars and other motor vehicles principally designed for the transport of persons, with a cylinder capacity not exceeding 1500cm^3: CN code

[17] In this context, the Commission is planning to adopt an amendment to the Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, OJ L 343, 29.12.2015, p. 558.

[18] OJ L 256, 7.9.1987, p. 1.

[19] https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/what-is-common-customs-tariff/taric_en

8703 31 10 – third country duty rate is 10.00% of the customs value of the goods.

- Vacuum cleaners with self-contained electric motor of a power not exceeding 1 500 W and having a dust bag or other receptacle capacity not exceeding 20 liters: CN code 8508 11 00 – third country duty rate is 2.2% of the customs value of the goods.

- Crispbread: CN Code 1905 10 00 – third country duty rate is 5.80% of the customs value of the goods + 13.00 EUR/100kg.

- Frozen carcasses and half-carcasses of high-quality beef and veal: CN code 0202 10 00 – third country duty rate is 12.80% of the customs value of the goods + 176.80 EUR/100kg.

4. ORIGIN OF THE GOOD

In case of no-deal as from the withdrawal date imports from the UK will be treated as imports from any third country with which the EU does not have any preferential arrangement. Therefore, only of relevance are the EU **non-preferential rules of origin.**

The basic rules on the non-preferential origin of goods are laid down in Articles 59 to 63 UCC.

Article 59 UCC establishes the purposes of the determination of the non-preferential origin of a good: the application of non-preferential tariff measures (e.g. GATT tariff quotas or anti-dumping duties), of measures related to trade in goods other than tariff measures (e.g. certain prohibitions) and of other Union measures relating to the origin of goods (e.g. external trade statistics).

According to Article 60 UCC, goods wholly obtained in a country shall be regarded as having their origin in that country. Where the production of goods involves more than one country, the country of origin is deemed to be the country or territory where the good underwent its last, substantial, economically justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.

For details, please refer to the information on rules of origin here: https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin_en

How to calculate customs duties is in detail explained at the Commission's website: https://ec.europa.eu/taxation_customs/business/calculation-customs-duties_en. These pages will be updated with further information, where necessary.

The European Commission Directorate-General Taxation and Customs Union also provides a dedicated internet site with information and advices on how business

operators can prepare for the withdrawal of the United Kingdom from the Union in case of no-deal: https://ec.europa.eu/taxation_customs/uk_withdrawal_en.

European Commission
Directorate-General Taxation and Customs Union
Directorate-General Trade

EU Competition law

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMPETITION

Brussels, 25 March 2019

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU COMPETITION LAW

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. On 22 March 2019, the European Council (Article 50) decided, in agreement with the United Kingdom, and in the event that the Withdrawal Agreement is approved by the House of Commons by 29 March, to extend the 2-years period provided for in Article 50(3) of the Treaty on European Union until 22 May 2019.

In the event that the Withdrawal Agreement is not approved by the House of Commons by 29 March 2019, the European Council decided to extend the period provided for in Article 50(3) of the Treaty on European Union until 12 April 2019. This means that as from 13 April 2019, 00:00h (CET) ('the withdrawal date') the United Kingdom may be a 'third country'.[1]

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,[2] as of the withdrawal date, the United Kingdom will become a third country as regards the application of EU competition rules[3].

This note provides some guidance only on the main implications that can be foreseen of a no deal scenario for the application of EU competition law (antitrust, merger control).[4]

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1 A third country is a country not member of the EU.

2 Cf. Part four of 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 (OJ, C 66 I, 19.2.2019, p. 1).

3 Until the United Kingdom withdraws, however, EU competition law remains fully applicable in the United Kingdom, as in any other Member State.

4 This is an informal document of the services of DG Competition and it does not create or affect legal rights nor does it bind the European Commission.

1. EU ANTITRUST ENFORCEMENT

EU antitrust enforcement is governed by Articles 101 and 102 of the Treaty on the Functioning of the European Union ("TFEU"), Regulation No 1/2003,[5] and the implementing Regulation No 773/2004.[6] This legal framework is complemented by other Regulations dealing with particular types of conduct or with specific sectors, as well as the guidance provided in various decisions,[7] notices and guidelines adopted by the European Commission ("Commission") and in the case law of the Union Courts.[8]

Territorial application of EU competition law

The territorial application of EU antitrust rules is defined in Articles 101 and 102 TFEU, as interpreted by the Court of Justice of the European Union ("Court of Justice"). They apply regardless of the nationality of the undertaking or its country of incorporation or where its headquarters are located, and may also cover conduct occurring outside of the EU. The Court of Justice has held that the fact that an undertaking participating in an agreement is situated in a third country does not prevent the application of the TFEU, if that agreement is operative on the territory of the internal market[9]. For conduct occurring outside the EU, the Commission's jurisdiction can be justified under public international law either on the basis of the implementation of conduct in the EU[10] or on the basis of the qualified effects doctrine in the EU.[11]

Hence, the fact that the United Kingdom will become a third country following its withdrawal, will not have as such an impact on the applicability of the EU antitrust rules to UK companies. As any other company registered or headquartered in a third country, a UK company will be subject to EU antitrust rules if its anticompetitive conduct is implemented or produces effects in the EU. This applies to public undertakings and undertakings enjoying special or exclusive rights located or established in the United Kingdom.

Specific issues in the enforcement of EU antitrust rules following the United Kingdom's withdrawal

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5 Council Regulation (EC) No 1/2003, of 16 December 2002 on the implementation of the rules on competition laid down in Articles [10]1 and [10]2 of the Treaty, OJ L1, 4.1.2003, p. 1.

6 Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles [10]1 and [10]2 of the Treaty, OJ L123, 27.04.2004, p. 18.

7 Commission decision of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings, OJ L 275, 20.10.2011, p. 29.

8 For an overview of the legislation and the various notices and guidelines, see http://ec.europa.eu/competition/antitrust/legislation/legislation.html.

9 See for example, Case 22/71, *Béguelin Import*, EU:C:1971:113, paragraph 11.

10 Joined cases C-89/85, C-104/85, C-114/85, C-116/85, C-117/85 and C-125/85 to C-129/85, Ahlström Osakeyhtiö and Others v Commission, 89/85, 104/85, 114/85, 116/85, 117/85 and 125/85 to 129/85, EU:C:1988:447, paragraph 16.

11 Case C-413/14, Intel Corp. v European Commission, EU:C:2017:632, paragraphs 43-47.

The Commission will continue to exercise its jurisdiction on agreements or conduct affecting competition within the internal market. The jurisdiction of the United Kingdom over such practices pursuant to its own national antitrust rules may also be applicable in parallel.

Consequence on the Commission's investigative powers and validity of Commission decisions

The Commission will no longer be able to carry out inspections under Article 20 of Regulation No 1/2003 in the United Kingdom. The Commission will still be able to obtain information under Article 18 of Regulation No 1/2003.

All Commission decisions adopted under Articles 101 and 102 TFEU before the United Kingdom's withdrawal from the EU will remain valid.

2. EU MERGER CONTROL

EU merger control is governed by the EU Merger Regulation ("EUMR")[12] and its Implementing Regulation.[13] This legal framework is complemented by guidance provided in various Commission notices and guidelines and in the Union Courts' case law.[14]

The EUMR establishes an *ex ante* control system, in which certain types of transactions with specific turnover thresholds have to obtain the Commission's approval before the parties involved are allowed to implement them. If the Commission has jurisdiction over a transaction under the EUMR, Member States are no longer allowed to apply their national competition laws to this transaction. They may, however, take appropriate measures to protect legitimate interests other than those taken into consideration by the EUMR, under the conditions provided for in Article 21 thereof. The exclusive jurisdiction of the Commission in the EU under the EUMR is also referred to as the "one-stop-shop principle".

As for antitrust rules, the EU merger control system applies regardless of the nationality or country of incorporation or where the headquarters of a company are located. Hence, the fact that the United Kingdom will become a third country following its withdrawal from the EU, will not have an impact on the applicability of the EUMR to UK companies when the jurisdictional criteria of the EUMR are fulfilled.

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12 Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings, Official Journal, OJ L24, 29.01.2004, p. 1.

13 Commission Regulation (EC) No 802/2004 of 21 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the "Implementing Regulation") and its annexes (Form CO, Short Form CO, Form RS and Form RM) (OJ L 133, 30.04.2004, p. 1), as amended by Commission Regulation (EC) No 1033/2008 (OJ L 279, 22.10.2008, p. 3), and by Commission Implementing Regulation (EU) No 1269/2013 of 5 December 2013, OJ L336, 14.12.2013, p. 1.

14 For an overview of the various notices and guidelines, see http://ec.europa.eu/competition/mergers/legislation/legislation.html.

It is possible that both the Commission and the UK national competition authority will be competent to review in parallel a planned concentration but under their respective substantive and jurisdictional rules on merger control.[15] Therefore, companies will no longer benefit from the one-stop-shop principle in that regard.

Specific issues concerning the assessment of the Commission's jurisdiction

The relevant date for establishing EU jurisdiction over a concentration pursuant to Articles 1 and 3 EUMR is the date of the conclusion of the binding legal agreement, the announcement of a public bid or the acquisition of a controlling interest or the date of the first merger notification, whichever date is earlier[16]. These rules are not altered by the United Kingdom's departure from the EU. If any of the relevant events takes place prior to the United Kingdom's withdrawal, the Commission will assess whether the jurisdictional test of the EUMR is met on the date of that event.

If the relevant date for establishing EU jurisdiction takes place after the United Kingdom's withdrawal, the Commission will no longer take into account the turnover that the parties to the concentration realise in the United Kingdom, when establishing the relevant EU-wide turnover and the relevant turnover realised in individual Member States.[17]

Specific jurisdictional issues over concentrations without EU dimension following a referral

As regards the Commission's jurisdiction following a referral of a concentration without EU dimension, a distinction needs to be drawn between pre-notification referrals pursuant to Article 4(5) EUMR, and post-notification referrals pursuant to Article 22 EUMR.

- Pre-notification referrals pursuant to Article 4(5) EUMR

Under Article 4(5) EUMR the notifying party or parties may make a reasoned submission that a concentration without a Union dimension be reviewed by the Commission, provided that the concentration is capable of being reviewed under the national competition laws of at least three Member States. Any competent Member State may object within 15 working days. In instances where an Article 4(5) submission has been made prior to the withdrawal date and where a concentration without Union dimension is capable of being reviewed in three Member States, amongst which the United Kingdom, the Commission will acquire jurisdiction under Article 4(5) EUMR if, prior to the United Kingdom's withdrawal, the period

[15] As is the case now for transactions which are reviewed by the Commission and third-country competition agencies.

[16] See paragraph 156 of the Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ C95 of 16.04.2008, p. 1.

[17] This may result in some transactions that would have met the EUMR thresholds, if the UK turnover of the undertakings concerned were to be included, not being notifiable; for example where the target undertaking does not realise a turnover of at least EUR 250 million in the EU without counting its turnover in the United Kingdom.

of 15 working days has elapsed without any competent Member State expressing its disagreement.

The fact that a concentration is capable of being reviewed in the United Kingdom will no longer be relevant for the application of Article 4(5) EUMR for submissions made after the day of its withdrawal.

- Post-notification referrals pursuant to Article 22 EUMR

After its withdrawal, the United Kingdom will no longer be empowered to refer cases to the Commission or to join referral requests by other Member States under Article 22 EUMR. If the United Kingdom has requested the referral or joined a referral request by another Member State prior to its withdrawal and the Commission has decided (or is deemed to have decided) to examine the concentration in accordance with Article 22(3) EUMR before the date of its withdrawal, the case will be considered to be referred also with respect to the United Kingdom. If not, the case will not be considered to be referred in relation to the United Kingdom.

Substantive assessment

After the withdrawal date and if the Withdrawal Agreement is not ratified, the Commission will have to take account of the fact that the United Kingdom will no longer be part of the internal market. This implies that the Commission will no longer be competent to find that a planned concentration would (or would not) significantly impede effective competition in UK national or subnational markets. Moreover, trade between the EU and the United Kingdom may become subject to new tariffs and non-tariff barriers. This may have a bearing on the Commission's competitive assessment including the suitability and viability of remedies where a concentration leads to competition concerns. The respective consequences will have to be assessed individually for each case concerned and merging parties are invited to discuss those aspects with the services of the Commission's Directorate-General for Competition.

Inspections pursuant to Article 13 EUMR will no longer be possible in the United Kingdom. The Commission will still be able to obtain information under Article 11 EUMR.

Continued validity of Commission decisions under the EUMR after the United Kingdom's withdrawal

All Commission decisions under the EUMR (including decisions imposing conditions and obligations) remain valid after the United Kingdom's withdrawal. For the sake of clarity, no distinction should be drawn between decisions that relate to the effect of a concentration on competition at the level of the European Economic Area or within any of the remaining 27 EU Member States, and Commission decisions that relate to the effect of a concentration in UK national or sub-national markets. The decision will in principle remain valid also in instances

where commitments address a competition issue only affecting a UK national or sub-national market.[18]

Following the United Kingdom's withdrawal, parties may in certain circumstances consider requesting the Commission to waive, modify or substitute certain commitments under the standard review clause that is typically contained in commitments.[19] Requests may be considered founded in instances where the commitments in question address competition issues in UK markets only (or markets including only the United Kingdom and a third country). The services of the Commission's Directorate-General for Competition will be available for guidance in individual cases.

The Commission website on EU Competition law (http://ec.europa.eu/competition/index_en.html) provide additional information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Competition

[18] Indeed, at the time of taking the decision, the Commission had jurisdiction and therefore the obligation to seek a remedy to address a competition concerns in the United Kingdom, while the UK national competition authority did not have jurisdiction to do so, remains in place.

[19] See Section F – The review clause of the Commission's Model text for divestiture commitments, available at http://ec.europa.eu/competition/mergers/legislation/legislation.html.

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