EUROPEAN COMMISSION

DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY,ENTREPRENEURSHIP AND SMEs

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# NOTICE TO STAKEHOLDERS

## WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON DRUG PRECURSORS

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a "third country".[1] The Withdrawal Agreement[2] provides for a transition period ending on 31 December 2020. Until that date, EU law in its entirety applies to and in the United Kingdom.[3]

During the transition period, the EU and the United Kingdom will negotiate an agreement on a new partnership, providing notably for a free trade area. However, it is not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would create a relationship which in terms of market access conditions will be very different from the United Kingdom's participation in the internal market,[4] in the EU Customs Union, and in the VAT and excise duty area.

Therefore, all interested parties, and especially economic operators, are reminded of the legal situation applicable after the end of the transition period (Part A below). This notice also explains certain relevant separation provisions of the Withdrawal Agreement (Part B below), as well as the rules applicable in Northern Ireland after the end of the transition period (Part C below).

**Advice to stakeholders:**

To address the consequences set out in this notice, stakeholders involved in trading drug precursors are advised to consider the impact of the end of the transition period on the trade with the United Kingdom.

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

2 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 L 29, 31.1.2020, p. 7 ("Withdrawal Agreement").

3 Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this notice.

4 In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the "country of origin principle", and harmonisation. Nor does a free trade agreement remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

**Please note:**

This notice does not address

- EU general chemicals law; and
- EU customs procedures.

For these aspects, other notices have been published.[5]

In addition, attention is drawn to the more generic notice on prohibitions and restrictions, including import/export licences[6].

## A. LEGAL SITUATION AFTER THE END OF THE TRANSITION PERIOD

After the end of the transition period, EU law on drug precursor[7] no longer applies in the United Kingdom.[8] Movements of goods from the EU to the United Kingdom will be considered exports from the EU and movements of goods from the United Kingdom to the EU will be considered imports into the EU. This has in particular the following consequences:

These movements are no longer intra-EU movement and hence Regulation (EC) No 273/2004 no longer applies to these movements. Instead, Regulation (EC) No 111/2005 applies.

- According to Article 11 of Regulation (EC) No 111/2005 all exports of scheduled substances listed in Categories 1 and 4 of the Annex and certain exports of scheduled substances listed in Categories 2 and 3 of the Annex have to be preceded by a pre-export notification sent from the competent authorities in the Union to the competent authorities of the United Kingdom. The United Kingdom shall be allowed a period of 15 working days to reply, at the end of which the export operation may be authorised by the competent authorities of the Member State of export, if no advice from the competent authorities of the United Kingdom is received indicating that this export operation might be intended for the illicit manufacture of narcotic drugs or psychotropic substances.

- Additionally, according to Article 12 of the Regulation (EC) No 111/2005, exports of scheduled substances listed in Categories 1, 2 and 4 of the Annex that require a customs declaration, including exports of scheduled substances leaving

5 https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period_en

6 https://ec.europa.eu/info/sites/info/files/brexit_files/info_site/import_and_export_licences_en.pdf

7 Regulation (EC) No 111/2005 laying down rules for the monitoring of trade between the Union and third countries in drug precursors, OJ L 22, 26.1.2005, p. 1, and Regulation (EC) No 273/2004 on drug precursors, OJ L 47, 18.2.2004, p. 1.

8 Regarding the applicability of Regulation (EC) No 111/2005 and Regulation (EC) No 273/2004 to Northern Ireland, see Part C of this notice.

the customs territory of the Union following their storage in a free zone of control type I or free warehouse for a period of at least 10 days, are subject to an export authorisation. Export authorisations shall be issued by the competent authorities of the Member State where the exporter is established.

- According to Article 20 of Regulation (EC) No 111/2005 imports of scheduled substances listed in Category 1 of the Annex after the end of the transition period from the United Kingdom shall be subject to an import authorisation. An import authorisation may only be granted to an operator established in the Union. The import authorisation shall be issued by the competent authorities of the Member State where the importer is established.

## B. RELEVANT SEPARATION PROVISIONS OF THE WITHDRAWAL AGREEMENT

Article 47(1) of the Withdrawal Agreement provides that, under the conditions set out therein, movements of goods ongoing at the end of the transition period are to be treated as intra-Union movements regarding importation and exportation licencing requirements in EU law.

**Example:** A specific consignment of drug precursors, the movement of which is ongoing between the EU and the United Kingdom at the end of the transition period can still enter the EU or the United Kingdom on the basis of the provisions of Regulation (EC) No 273/2004.

## C. APPLICABLE RULES IN NORTHERN IRELAND AFTER THE END OF THE TRANSITION PERIOD

After the end of the transition period, the Protocol on Ireland/Northern Ireland ("IE/NI Protocol") applies.[9] The IE/NI Protocol is subject to periodic consent of the Northern Ireland Legislative Assembly, the initial period of application extending to 4 years after the end of the transition period.[10]

The IE/NI Protocol makes certain provisions of EU law applicable also to and in the United Kingdom in respect of Northern Ireland. In the IE/NI Protocol, the EU and the United Kingdom have furthermore agreed that insofar as EU rules apply to and in the United Kingdom in respect of Northern Ireland, Northern Ireland is treated as if it were a Member State.[11]

The IE/NI Protocol provides that Regulation (EC) No 111/2005 and Regulation (EC) No 273/2004 apply to and in the United Kingdom in respect of Northern Ireland.[12]

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9 Article 185 of the Withdrawal Agreement.

10 Article 18 of the IE/NI Protocol.

11 Article 7(1) of the Withdrawal Agreement in conjunction with Article 13(1) of the IE/NI Protocol.

12 Article 5(4) of the IE/NI Protocol and section 23 of Annex 2 to that Protocol. Regulation (EC) No 111/2005 has been added to that Annex with the Decision No 3/2020 of the Joint Committee of 17 December 2020.

This means that references to the EU in Parts A and B of this notice have to be understood as including Northern Ireland, whereas references to the United Kingdom have to be understood as referring only to Great Britain.

More specifically, this means *inter alia* the following:

- Operators and users established in Northern Ireland are bound by the obligations set by Regulation (EC) No 273/2004 and Regulation (EC) No 111/2005.

- Regulation (EC) No 273/2004 applies to shipments of drug precursors between Northern Ireland and the EU and therefore Regulation (EC) No 111/2005 does not apply in this case.

- Regulation (EC) No 111/2005 applies to exports of drug precursors from Northern Ireland to a third country. Thus, shipments of drug precursors shall be preceded by a pre-export notification sent from the competent authorities in Northern Ireland to the competent authorities of the third country and shall be subject to an export authorisation. Export authorisations shall be issued by the competent authorities in charge of Northern Ireland.

- Regulation (EC) No 111/2005 applies to exports of drug precursors from Northern Ireland to Great Britain.[13]

- Regulation (EC) No 111/2005 applies to imports of drug precursors from Great Britain or a third country to Northern Ireland. Thus, shipments of drug precursors shall be subject to an import authorisation which shall be issued by the competent authorities in charge of Northern Ireland.

However, the IE/NI Protocol excludes the possibility for the United Kingdom in respect of Northern Ireland to participate in the decision-making and decision-shaping of the Union.[14]

The website of the Commission on EU rules for drug precursors (https://ec.europa.eu/growth/sectors/chemicals/legislation_en and https://ec.europa.eu/taxation_customs/business/customs-controls/drug-precursors-control_en) provide general information. These pages will be updated with further information, where necessary.

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[13] The obligation in relation to exports in Regulation (EC) No 111/2005 is required by international obligations of the Union (UN 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances), cf. Article 6(1) of the IE/NI Protocol

[14] Where an information exchange or mutual consultation is necessary, this will take place in the joint consultative working group established by Article 15 of the IE/NI Protocol.