



Brussels, 15 September 2020

NOTICE TO STAKEHOLDERS

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

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”.¹ The Withdrawal Agreement² provides for a transition period ending on 31 December 2020.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 concerned are in particular advised to take account of new requirements when moving firearms between the EU and the United Kingdom.

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 rules on

- military technology and equipment, incl. exports of items on the EU Common Military List;^{5 6}
- dual use export control;
- pyrotechnic articles and explosives;
- customs procedures and formalities.

For these aspects, other notices are in preparation or have been published.⁷

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

A. LEGAL SITUATION AFTER THE END OF THE TRANSITION PERIOD

After the end of the transition period, EU law on the acquisition, possession,⁸ import and export⁹ of firearms no longer apply to the United Kingdom.¹⁰ This has in particular the following consequences:

1. MOVEMENT OF FIREARMS - INTRA-EU MOVEMENT OF FIREARMS

Directive 91/477/EEC provides for a specific authorisation procedure for the movement of firearms from one Member State to another Member State. A detailed description is set out in an annex to this notice.

After the end of the transition period, these rules no longer apply to movement of firearms between the United Kingdom and the EU. Rather, the EU rules on import and export of firearms (see below) apply. EU firearms pass issued to persons in the United Kingdom is no longer valid in the EU.

⁵ Common Military List of the European Union, ST/5802/2019/INIT, OJ C 95, 12.3.2019.

⁶ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, OJ L 335, 13.12.2008, p. 99.

⁷ https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period_en

⁸ 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.

⁹ 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.

¹⁰ Regarding the applicability of these rules to Northern Ireland, see Part C of this notice.

2. IMPORT OF FIREARMS

According to Regulation (EU) No 258/2012, read in conjunction with Directive 91/477/EEC the following applies:

- Imports of firearms must be authorised by the Member State of destination.¹¹ Such authorisation implies that the importer must be authorised to acquire and possess firearms in accordance to Directive 91/477/EEC before import;¹²
- the firearms must be marked in accordance with Article 4(1) and (2) of Directive 91/477/EEC, at the latest before their placement on the market, or without delay after importation into the Union;¹³
- the imported firearms must be marked at the time of import at least with a simple marking permitting identification of the first country of import within the European Union, or, where the firearms do not bear such a marking, a unique marking identifying the imported firearms;¹⁴
- the imported firearm must be registered in compliance with Directive 91/477/EEC without delay after importation into the Union.¹⁵

Temporary introduction

Where firearms are brought temporarily into the EU from a third country (for instance temporary admission for evaluation or exhibition without sale, or inward processing for repair), national rules for the declaration and authorisation of firearms apply.

3. EXPORT OF FIREARMS

Export of **civilian firearms** are regulated by Regulation (EU) No 258/2012. The following rules do not apply to:

- State to State transactions or State transfers;
- firearms specially designed for military use and, in any case, firearms of the fully automatic firing type;
- firearms destined for the armed forces, the police, or the public authorities of the Member States;
- collectors and bodies concerned with cultural and historical aspects of firearms;

¹¹ Article 2(15)(a) of Regulation (EU) No 258/2012.

¹² Namely Articles 6, 7 and 8 of Directive 91/477/EEC.

¹³ Article 2(15)(b) of Regulation (EU) No 258/2012.

¹⁴ Article 2(15)(c) of Regulation (EU) No 258/2012.

¹⁵ Article 4(1)(b) of Directive 91/477/EEC.

- deactivated firearms;
- antique firearms (manufactured before 1899).

Exports are subject to the explicit authorisation of the EU Member State where the exporter is established (Article 4(1) of Regulation (EU) No 258/2012), the third country of transit (Article 7(1)(b) of Regulation (EU) No 258/2012), and the third country of destination (Article 7(1)(a) of Regulation (EU) No 258/2012). No export authorisation can be granted without a prior import (and if applicable, transit) authorisation from the country of destination (Article 7(1) of Regulation (EU) No 258/2012). The export authorisation must follow the template set out in Annex II of Regulation (EU) No 258/2012.

Applications for an export authorisation must be processed by the competent authority of the Member States within a maximum of 60 working days (with a possibility to extend this period to 90 days in exceptional circumstances).¹⁶ Member States may decide to make use of electronic documents for the purpose of processing the applications for export authorisation.¹⁷ Member States may also decide that, if no objections to the transit are received within 20 working days from the third country of transit, the latter shall be regarded as having no objection to the transit (tacit consent).¹⁸ The export authorisation must include the information set out in Article 8 of Regulation (EU) No 258/2012. The exporter may be required to provide a translation into an official language of the Member State where the export declaration is presented of any documents furnished as proof.¹⁹

National customs authorities may suspend the process of export from their territory or otherwise prevent firearms benefiting from an export authorisation from leaving the customs territory of the Union through their territory, in case of suspicion that the conditions for authorisation are not respected.^{20 21}

In granting export authorisations, Member States must assess the **respect of the following conditions** by applicants:

- obligations and commitments to the relevant international export control arrangements or relevant international treaties;²²

¹⁶ Article 7(4) of Regulation (EU) No 258/2012.

¹⁷ Article 7(6) of Regulation (EU) No 258/2012.

¹⁸ Article 7(2) of Regulation (EU) No 258/2012.

¹⁹ Article 17(2) of Regulation (EU) No 258/2012.

²⁰ Article 17(3) of Regulation (EU) No 258/2012.

²¹ For weapons which are governed both by Regulation (EU) No 258/2012 and by Council Common Position 2008/944/CFSP (such as firearms of semi-automatic or pump-action type using centre-fire case ammunition), Member States may establish a single procedure to carry out the obligations imposed by both instruments, cf. Article 2(1) of Common Position 2008/944/CFSP and article 4(2) of Regulation (EU) No 258/2012.

²² Article 2(1) of Common Position 2008/944/CFSP and article 10 of Regulation (EU) No 258/2012.

- considerations of national foreign and security policy;²³
- considerations as to intended end use, consignee, identified final recipient and the risk of diversion;²⁴
- possible arms embargoes and international sanctions.²⁵

Temporary exports

Finally, Regulation (EU) No 258/2012 establishes simplified procedures with respect to temporary exports, notably of hunters and sport shooters.

Temporary exports of firearms, as part of their accompanied personal effects (or for the re-export following temporary admission for hunting or sport shooting activities), do not require an export authorisation provided that the reasons for the journey are substantiated.²⁶ When leaving the EU to a third country 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 a third country 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.²⁷

In addition, Member States have established simplified procedures under national law for:

- the re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward processing for repair, provided that the firearms remain the property of a person established outside the customs territory of the Union and the firearms are re-exported to that person;
- the re-export of firearms if they are held in temporary storage from the moment they enter the customs territory of the Union until their exit; and
- the temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, provided that the exporter substantiates the lawful possession of these firearms and exports them under the outward processing or temporary exportation customs procedures.²⁸

²³ As set out in Article 2 of Common Position 2008/944/CFSP.

²⁴ Article 5 of Common Position 2008/944/CFSP and Article 10(1) of Regulation (EU) No 258/2012.

²⁵ Article 10(2) of Regulation (EU) No 258/2012.

²⁶ Article 9(1)(a) of Regulation (EU) No 258/2012

²⁷ Article 9(1)(b) of Regulation (EU) No 258/2012.

²⁸ Article 9(2) of Regulation (EU) No 258/2012.

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 firearm, 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 rules applicable for movements between Member States.

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.²⁹ 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.³⁰

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.³¹

The IE/NI Protocol provides that Directive 91/477/EEC and Regulation (EU) No 258/2012 apply to and in the United Kingdom in respect of Northern Ireland.³²

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:

- Movements of firearms between Northern Ireland and the EU are not considered as imports or exports and therefore Regulation (EU) No 258/2012 does not apply to such movements. Rather, the rules for intra-EU movements set out in Directive 91/477/EEC apply, as set out in section A.1. and the annex to this notice. The transfer authorisation will be issued by the United Kingdom in respect of Northern Ireland. The European firearms pass issued prior to the end of the transition period in respect of persons in Northern Ireland remains valid.

²⁹ Article 185 of the Withdrawal Agreement.

³⁰ Article 18 of the IE/NI Protocol.

³¹ Article 7(1) of the Withdrawal Agreement in conjunction with Article 13(1) of the IE/NI Protocol.

³² Article 5(4) of the IE/NI Protocol and section 47 of annex 2 to that Protocol.

- The import of firearms from Great Britain or a third country to Northern Ireland has to comply with the relevant provisions of EU law as set out in section A.2. of this notice.³³
- The export of firearms from Northern Ireland to a third country or to Great Britain has to comply with the relevant provisions of Regulation (EU) No 258/2012 as set out in section A.3 of this notice.³⁴

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.³⁵

The website of the Commission on EU rules on firearms (https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-firearms_en) provides general information concerning Union legislation. These pages will be updated with further information, where necessary.

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³³ Regulation (EU) No 258/2012 and Directive 91/477/EEC.

³⁴ The obligation in relation to exports in Regulation (EU) No 258/2012 is required by international obligations of the Union (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), cf. in particular Article 10 of the UN Firearms Protocol), cf. Article 6(1) of the IE/NI protocol.

³⁵ 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.

ANNEX: EU-RULES FOR THE MOVEMENT OF FIREARMS BETWEEN MEMBER STATES

According to Article 11 of Directive 91/477/EEC, the movement of firearms from one Member State to another Member State is subject to an authorisation by the Member States concerned, including countries of passage.

Before attempting to acquire a firearm from another Member State, an individual or dealer must first obtain an authorisation (prior consent) from the authorities in his or her Member State of residence.³⁶

The acquiring individual or dealer presents this authorisation (prior consent) to the dealer or individual selling/holding the firearm in another Member States (in parallel the competent authorities of the Member State of the buyer will have sent the relevant information to the Member State where the firearm is located).

The individual or dealer selling/holding the firearm presents to the authorities in the Member State in which the firearm is located the details set out in Article 11(2) of Directive 91/477/EEC and the authorisation provided by the acquirer. Based on this information, the authorities of the Member State of dispatch may then issue a transfer authorisation/licence.

The authorities issuing a transfer authorisation must communicate all information received in relation to Article 11 to the authorities in the Member State of destination, in advance of the transfer and, to the authorities in any Member State of passage.³⁷

The firearm is then transferred to the Member State of destination, accompanied by the relevant documents.

Exchange of information between Member States take place by electronic means through the Internal Market Information System.³⁸

All the above rules apply to distance (e.g. online) sales. In addition, the identity and authorisation of the purchaser must be checked at the latest upon delivery by a licensed dealer/broker or a public authority.³⁹ Besides, dealers/brokers may refuse to complete "suspicious" transactions (due to its nature or scale).⁴⁰

Union law also provides for certain simplified procedures.

First, Member States can supply one another with a list of firearms the transfer of which may be authorised to its territory without its prior consent.⁴¹

³⁶ Articles 6, 7 and 8 of Directive 91/477/EEC.

³⁷ Article 13(2) of Directive 91/477/EEC.

³⁸ Commission Delegated Regulation (EU) 2019/686 of 16 January 2019 laying down the detailed arrangements under Council Directive 91/477/EEC for the systematic exchange, by electronic means, of information relating to the transfer of firearms within the Union, OJ L 116, 3.5.2019, p. 1.

³⁹ Article 5b of Directive 91/477/EEC.

⁴⁰ Article 10(2) of Directive 91/477/EEC.

⁴¹ Article 11(4) of Directive 91/477/EEC.

Directive 91/477/EEC also establishes 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.⁴²

Whenever persons want to travel from an EU Member State to another EU Member State, or through an EU Member State, they must obtain prior authorisation from each of those Member States, which will then be recorded in the European firearms pass, which they must have in their possession throughout their journey⁴³. 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 provided that they are able to substantiate the reasons for their journey (such as an invitation for an event in Member State of destination).

⁴² 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.

⁴³ Article 12(1) of Directive 91/477/EEC.