



Brussels, 17 July 2020

## NOTICE TO STAKEHOLDERS

### WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF EXPORT AND IMPORT OF HAZARDOUS CHEMICALS (“PRIOR INFORMED CONSENT”)

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”.<sup>1</sup> The Withdrawal Agreement<sup>2</sup> 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.<sup>3</sup>

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,<sup>4</sup> 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 to Northern Ireland after the end of the transition period (Part C below).

<b>Advice to stakeholders:</b>
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<sup>1</sup> A third country is a country not member of the EU.

<sup>2</sup> 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”).

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

<sup>4</sup> 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.

To address the consequences set out in this notice, stakeholders are in particular advised to consider the export and import of hazardous chemicals<sup>5</sup> to and from the United Kingdom and adapt their practices in light of this notice.

**Please note:**

This notice does not address:

- EU chemicals regulations, for example REACH;
- EU customs procedures for import or export.

For these aspects, other notices are in preparation or have been published.<sup>6</sup>

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 export and import of hazardous chemicals no longer applies to the United Kingdom.<sup>7</sup> Movements of chemicals from the EU to the United Kingdom will be exports from the EU and movements of chemicals from the United Kingdom to the EU will be imports into the EU. This has in particular the following consequences:

- The export of chemicals listed in Part 1 of Annex I to Regulation (EU) No 649/2012 after the end of the transition period from the EU to the United Kingdom requires the notification to the designated national authority at the latest 35 days before the expected date of export.<sup>8</sup>
- The export of chemicals listed in Part 2 of Annex I to Regulation (EU) No 649/2012 after the end of the transition period from the EU to the United Kingdom requires the explicit consent of the United Kingdom before the export can take place, unless the designated national authority of the exporter's Member State has, at the request of the exporter and in consultation with the Commission, decided that no such explicit consent is required because the chemical is licensed, registered or authorised in the United Kingdom.<sup>9</sup>

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<sup>5</sup> 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, OJ L 201, 27.7.2012, p. 60.

<sup>6</sup> [https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period\\_en](https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period_en)

<sup>7</sup> Regarding the applicability of Regulation (EU) No 649/2012 to Northern Ireland, see Part C of this notice.

<sup>8</sup> Article 8 of Regulation (EU) No 649/2012.

<sup>9</sup> Article 14 of Regulation (EU) No 649/2012.

- The export of chemicals listed in Part 3 of Annex I to Regulation (EU) No 649/2012 after the end of the transition period from the EU to the United Kingdom requires the explicit consent of the United Kingdom, either through the import response under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (“the Convention”) or through a reply to a request for explicit consent.<sup>10</sup>
- The export of chemicals listed in Annex III to the Convention after the end of the transition period from the United Kingdom to the EU requires an import decision of the EU.<sup>11</sup>
- Any export of chemicals listed in Annex I to Regulation (EU) No 649/2012 from the EU to the United Kingdom, and any import of those chemicals from the United Kingdom to the EU after the end of the transition period falls under the information requirements set out in Article 10 of Regulation (EU) No 649/2012.
- After the end of the transition period, the EU no longer notifies third countries of exports from the United Kingdom. All pending notification procedures involving exporters in the United Kingdom will be discontinued by ECHA at the end of the transition period.
- The EU import responses for chemicals listed in Annex III to the Convention<sup>12</sup> no longer apply to the United Kingdom after the end of the transition period.
- Chemicals exported from the EU to the United Kingdom after the end of the transition period have to comply with EU rules on packaging and labelling of chemicals, unless those provisions would conflict with any specific requirements of the importing Parties or other countries.<sup>13</sup>
- After the end of the transition period, export notifications received from the United Kingdom in accordance with Article 12 of the Convention will be made available by ECHA by means of ePIC.<sup>14</sup>

## **B. RELEVANT SEPARATION PROVISIONS OF THE WITHDRAWAL AGREEMENT**

Article 41(1) of the Withdrawal Agreement provides that an existing and individually identifiable good lawfully placed on the market in the EU or the United Kingdom before the end of the transition period may be further made available on the market of the EU or of the United Kingdom and circulate between these two markets until it reaches its end-user.

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<sup>10</sup> Article 14 of Regulation (EU) No 649/2012.

<sup>11</sup> Article 11 of the Convention.

<sup>12</sup> Article 13 of Regulation (EU) No 649/2012.

<sup>13</sup> Article 17 of Regulation (EU) No 649/2012.

<sup>14</sup> Article 9 of Regulation (EU) No 649/2012.

**Example:** Regulation (EU) No 649/2012 does not apply to a specific consignment of hazardous chemicals, the movement of which is ongoing between the EU and the United Kingdom at the end of the transition period.

### **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.<sup>15</sup> 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.<sup>16</sup>

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.<sup>17</sup>

The IE/NI Protocol provides that Regulation (EU) No 649/2012 applies to and in the United Kingdom in respect of Northern Ireland.<sup>18</sup>

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:

- Shipments of chemicals between Northern Ireland and the EU are not considered as imports or exports and therefore Regulation (EU) No 649/2012 does not apply to such shipments.
- The export of a chemical listed in Annex I to Regulation (EU) No 649/2012 from Northern Ireland to a third country has to comply with that Regulation, including the submission of export notifications via ePIC and, in the case of chemicals listed in Parts 2 or 3 of Annex I to Regulation (EU) No 649/2012, the requirement to get explicit consent from the importing country.
- The EU import responses for chemicals listed in Annex III to the Convention continue to apply after the end of the transition period to imports from third countries to Northern Ireland.<sup>19</sup>

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<sup>15</sup> Article 185 of the Withdrawal Agreement.

<sup>16</sup> Article 18 of the IE/NI Protocol.

<sup>17</sup> Article 7(1) of the Withdrawal Agreement in conjunction with Article 13(1) of the IE/NI Protocol.

<sup>18</sup> Article 5(4) of the IE/NI Protocol and section 23 of annex 2 to that Protocol.

<sup>19</sup> Article 13 of Regulation (EU) No 649/2012.

- The EU is responsible for issuing replies to requests for explicit consent for exports of chemicals from Great Britain or third countries to Northern Ireland.
- The information requirements set out in Article 10 of Regulation (EU) No 649/2012 apply to exporters and importers in Northern Ireland who export to Great Britain or to a third country, and who import from Great Britain or from a third country.

According to Article 6(1) of the IE/NI protocol, provisions of Union law made applicable by the Protocol which prohibit or restrict the exportation of goods shall only be applied to trade between Northern Ireland and other parts of the United Kingdom to the extent strictly required by any international obligations of the Union.

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

- The export of chemicals listed in Annex I to Regulation (EU) No 649/2012 from Northern Ireland to Great Britain has to comply only with the rules of that Regulation that implement the Convention. For example, the export of a chemical listed in Part 2 of Annex I to Regulation (EU) No 649/2012 from Northern Ireland to Great Britain has to be notified by the exporter but there is no requirement to get the explicit consent of the United Kingdom in respect of Great Britain.
- The rules on packaging and labelling of chemicals<sup>20</sup> only apply to exports of chemicals from Northern Ireland to Great Britain to the extent necessary to comply with Article 13 of the Convention.

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.<sup>21</sup>

The dedicated “Brexit-website” of ECHA (<https://echa.europa.eu/uk-withdrawal-from-the-eu>) as well as the website of the Commission on EU rules on export and import of hazardous chemicals ([https://ec.europa.eu/environment/chemicals/trade\\_dangerous/regulation/index\\_en.htm](https://ec.europa.eu/environment/chemicals/trade_dangerous/regulation/index_en.htm)) provide additional information. . These pages will be updated with further information, where necessary.

European Commission  
Directorate-General Environment

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<sup>20</sup> Article 17 of Regulation (EU) No 649/2012.

<sup>21</sup> 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.