



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 agreement¹ 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

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 uses⁶, 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.

European Commission
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

⁵ https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notice_en#grow

⁶ OJ L 94, 5.4.2008, p. 8.