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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. Following a request by the United Kingdom, the European Council (Article 50) agreed on 29 October 2019<sup>1</sup> to extend further<sup>2</sup> the period provided for in Article 50(3) TEU until 31 January 2020. This means that the United Kingdom will be, as of 1 February 2020 ('the withdrawal date') a 'third country'.<sup>3 4</sup>

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

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement,<sup>5</sup> 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,<sup>6</sup> 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

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<sup>1</sup> European Council Decision (EU) 2019/1810 taken in agreement with the United Kingdom on 29 October 2019 extending the period under Article 50(3) TEU, OJ L 278, 30.10.2019, p. 2.

<sup>2</sup> Following a request by the United Kingdom, the European Council had decided earlier on a first extension on 22 March 2019 (European Council Decision (EU) 2019/476, OJ L 80I, 22.3.2019, p. 1) and on a second extension on 11 April 2019 (European Council Decision (EU) 2019/584, OJ L 101, 11.4.2019, p. 1).

<sup>3</sup> A third country is a country not member of the EU.

<sup>4</sup> In addition, if the Withdrawal Agreement is ratified by both parties before that date, the withdrawal takes place on the first day of the month following the completion of the ratification procedures or on 1 February 2020, whichever is the earliest.

<sup>5</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 C 384 I, 12.11.2019, p. 1.

<sup>6</sup> It is recalled that, in order for the transition period to apply, the Withdrawal Agreement has to be ratified by the EU and the United Kingdom.

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,<sup>7</sup> 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:<sup>8</sup>

## 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*<sup>9</sup> 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<sup>10</sup>, 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.

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<sup>7</sup> OJ L 96, 29.3.2014, p. 1.

<sup>8</sup> 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](https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf).

<sup>9</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notice\\_en#grow](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notice_en#grow)

<sup>10</sup> OJ L 94, 5.4.2008, p. 8.

### 3. INTRA-COMMUNITY TRANSFER OF EXPLOSIVES FOR CIVIL USES

According to Article 11(2) of Directive 2014/28/EU, transfers<sup>11</sup> of explosives shall be approved by the competent authority in the Member State of the consignee.

As of the withdrawal date, a shipment of explosives for civil uses to, from and through the United Kingdom is no longer a transfer, and the rules on transfers no longer apply to these shipments. Rather, these shipments will be imports and exports respectively.

Approvals for transfers granted by the competent authority of the United Kingdom under Article 11(2) of Directive 2014/28/EU before the withdrawal date are no longer valid as of the withdrawal date.

The website of the Commission on the EU legislation on explosives for civil uses ([https://ec.europa.eu/growth/sectors/chemicals/legislation\\_en#explosives](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

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<sup>11</sup> Transfers are physical movements of explosives within the Union, cf. Article 2(6) of Directive 2014/28/EU.