



Brussels, 7 October 2019

## NOTICE TO STAKEHOLDERS

### WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON TOBACCO PRODUCTS

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 11 April 2019<sup>1</sup> to extend further<sup>2</sup> the period provided for in Article 50(3) TEU until 31 October 2019.<sup>3</sup> This means that the United Kingdom will be, as of 1 November 2019 ('the withdrawal date') a 'third country'.<sup>4 5</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>6</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>7</sup> as of the withdrawal date the EU rules on tobacco products, in particular Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the

---

<sup>1</sup> European Council Decision (EU) 2019/584, OJ L 101, 11.4.2019, p. 1.

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

<sup>3</sup> On 11 April 2019, following a second request for an extension by the United Kingdom, the European Council also decided that the decision to extend until 31 October 2019 would cease to apply on 31 May 2019 if the United Kingdom had not held elections to the European Parliament and had not ratified the Withdrawal Agreement by 22 May 2019. As the United Kingdom had not ratified the Withdrawal Agreement by 22 May 2019, it held European elections on 23 May 2019.

<sup>4</sup> A third country is a country not member of the EU.

<sup>5</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.

<sup>6</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 144 I, 25.4.2019, p. 1.

<sup>7</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.

manufacture, presentation and sale of tobacco and related products,<sup>8</sup> no longer apply to the United Kingdom. This has in particular the following consequences:

**Please note:**

**This notice does not address other aspects relevant in the context of trade in tobacco products, such as**

**-EU rules on indirect taxation (excise<sup>9</sup> and VAT<sup>10</sup>);**

**-EU rules on enforcement of EU trade marks;<sup>11</sup> and**

**-EU rules on the advertising and sponsoring of tobacco products<sup>12</sup> as well as on audiovisual commercial communication.<sup>13</sup>**

## **1. REPORTING OF TOBACCO PRODUCTS AND NOTIFICATION OF E-CIGARETTES TO THE EU COMMON ENTRY GATE (EU-CEG)**

Article 5 of Directive 2014/40/EU requires manufacturers and importers of tobacco products to submit to the competent authorities of Member States information on all tobacco products that are placed on the EU market (ingredients, emissions, product presentation).

In addition, Article 20(2) of Directive 2014/40/EU requires manufacturers and importers of electronic cigarettes and refill containers to submit a notification to competent authorities of Member States of any such products that they intend to place on the EU market.

The electronic submission of the required information on tobacco products and electronic cigarettes takes place via the EU Common Entry Gate (EU-CEG).<sup>14</sup>

---

<sup>8</sup> OJ L 127, 29.4.2014, p. 1.

<sup>9</sup> See, on this matter, the “*Guidance note - Withdrawal of the United Kingdom and aspects of excise in relation to movement of goods ongoing on the withdrawal date*” ([https://ec.europa.eu/info/sites/info/files/file\\_import/guidance-excise-ongoing-movements\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/guidance-excise-ongoing-movements_en.pdf)).

<sup>10</sup> See, on this matter, the various notices on VAT and customs procedures ([https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#tradetaxud](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud)).

<sup>11</sup> See, in particular, the “*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of customs enforcement of intellectual property rights*” ([https://ec.europa.eu/info/sites/info/files/file\\_import/intellectual\\_property\\_enforcement\\_by\\_customs\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/intellectual_property_enforcement_by_customs_en.pdf)).

<sup>12</sup> Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products, OJ L 152, 20.6.2003, p. 16.

<sup>13</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), OJ L 95, 15.4.2010, p. 1.

<sup>14</sup> [https://ec.europa.eu/health/euceg/introduction\\_en](https://ec.europa.eu/health/euceg/introduction_en).

As of the withdrawal date, the notification requirements set out in Directive 2014/40/EU will no longer apply to the products to be placed on the UK market. The EU-CEG can no longer be used for submissions to the United Kingdom. As of the withdrawal date, when submitting an updated version of a previous notification, EU manufacturers and importers will have to ensure that the UK market is no longer listed in those submissions.

## **2. COMBINED HEALTH WARNINGS ON TOBACCO PRODUCTS (COLOUR PHOTOGRAPHS)**

Article 10 of Directive 2014/40/EU establishes a requirement for unit packets and outside packaging of tobacco products to carry combined health warnings. The combined health warnings consist of prescribed text warnings and corresponding colour photographs.<sup>15</sup>

These colour photographs are owned by the Commission. Therefore, tobacco products placed on the UK market as of the withdrawal date can no longer carry the colour photographs established under Directive 2014/40/EU.

## **3. UNIQUE IDENTIFIERS**

Article 15 of Directive 2014/40/EU requires all unit packets of tobacco products to be marked with a unique identifier.<sup>16</sup>

- Tobacco products imported as of the withdrawal date from the United Kingdom into the EU-27 market have to comply with the rules for importation into the EU. Thus, these tobacco products have to be marked with a unique identifier issued by the ID issuer of the EU-27 Member State on whose market the product is placed.<sup>17</sup>
- Tobacco products exported as of the withdrawal date from the EU-27 to the United Kingdom have to comply with the rules for exports from the EU-27. Thus, these products have to be marked with a unique identifier issued by the ID issuer of the EU-27 Member State in which the product was manufactured.<sup>18</sup>

## **4. TRANSMISSION OF INFORMATION ON PRODUCT MOVEMENTS**

Article 15 of Directive 2014/40/EU and Implementing Regulation (EU) 2018/574 requires the recording of movements of unit packets of tobacco products.<sup>19</sup>

---

<sup>15</sup> Cf. Commission Delegated Directive 2014/109/EU of 10 October 2014 amending Annex II to Directive 2014/40/EU of the European Parliament and of the Council by establishing the library of picture warnings to be used on tobacco products, OJ L 360, 17.12.2014, p. 22.

<sup>16</sup> Cf. Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products, OJ L 96, 16.4.2018, p. 7.

<sup>17</sup> Article 4(2) of Implementing Regulation (EU) 2018/574.

<sup>18</sup> Article 4(4) of Implementing Regulation (EU) 2018/574.

<sup>19</sup> Cf. Chapter VI of Commission Implementing Regulation (EU) 2018/574.

As of the withdrawal date, product movements from the EU to the United Kingdom and *vice-versa* are exports/imports respectively, and have to be recorded accordingly.

## 5. PRIMARY AND SECONDARY REPOSITORIES

Article 15 of Directive 2014/40/EU and Articles 24, 26 and 27 of Implementing Regulation (EU) 2018/574 require the setting up of data storage infrastructure (primary repositories for each manufacturer and importer; a secondary repository containing a copy of all data stored in primary repositories) that allow the tracking and tracing of tobacco products.

As of the withdrawal date,

- all UK parties, namely the UK national authorities, the UK ID issuer, and UK economic operators have to be disconnected from primary repositories.
- all UK parties, namely the UK national authorities, the UK ID issuer, primary repositories contracted by manufacturers and importers solely established on the territory of the United Kingdom, and UK economic operators have to be disconnected from the secondary repository.

The data linked to the United Kingdom must remain in the repositories system and be stored in accordance with the applicable retention policy.<sup>20</sup>

The website of the Commission on tobacco control policy ([https://ec.europa.eu/health/tobacco/policy\\_en](https://ec.europa.eu/health/tobacco/policy_en)) provides general information concerning the regulatory framework for tobacco and related products. The website dedicated to the EU-CEG (<https://ec.europa.eu/health/euceg>) provides specific (technical) information on the submission of product information. The website dedicated to tobacco traceability ([https://ec.europa.eu/health/tobacco/tracking\\_tracing\\_system\\_en](https://ec.europa.eu/health/tobacco/tracking_tracing_system_en)) provides specific (technical) information on the reporting of product movements and transactional information. These pages will be updated with further information, where necessary.

European Commission  
Directorate-General for Health and Food Safety

---

<sup>20</sup> Articles 25(1)(e) and 27(10) of Implementing Regulation (EU) 2018/574.