



Brussels, 17 August 2020
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28 June 2019

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF CULTURAL GOODS

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”.¹ The Withdrawal Agreement² provides for a transition period ending on 31 December 2020.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:

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.

To address the consequences set out in this notice, stakeholders are in particular advised to verify the need for obtaining export licences for cultural goods shipped to the United Kingdom after the end of the transition period.

Stakeholders are also reminded that after the end of the transition period, the introduction in the EU from the United Kingdom of illegally exported cultural goods originating there or in any other third country will become subject to a general prohibition under EU law.

Please note:

This notice does not address

- issues of return of cultural goods;
- customs procedures and formalities.

For these aspects, other notices are in preparation or have been published.⁵

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, Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods⁶ and Regulation (EU) 2019/880 of the European Parliament and of the Council of 17 April 2019 on the introduction and the import of cultural goods⁷ no longer⁸ apply to the United Kingdom.⁹ This has in particular the following consequences:

1. EXPORT LICENCES

1.1. Licences for exports to the United Kingdom

According to Article 2(1) of Regulation (EC) No 116/2009, the export of certain cultural goods¹⁰ is subject to an export licence. After the end of the

⁵ https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period_en

⁶ OJ L 39, 10.2.2009, p. 1.

⁷ OJ L 151, 7.6.2019, p. 1.

⁸ It is recalled that the general prohibition set out in Article 3(1) of Regulation (EU) 2019/880 applies from 28 December 2020 (Article 16(2)(a) of Regulation (EU) 2019/880).

⁹ Regarding the applicability of these rules to Northern Ireland, see Part C of this notice.

¹⁰ For example, furniture more than 50 years old or books more than 100 years old and with a value of more than EUR 50.000, printed maps more than 200 years old and with a value of more than EUR 15.000; see Annex I to Regulation (EC) No 116/2009.

transition period, where such cultural goods leave the EU customs territory to the United Kingdom, the Channel Islands, or the Isle of Man, these exports are subject to the export licence requirement.

1.2. Licences for exports to other third countries

According to Article 2(2) of Regulation (EC) No 116/2009, the export licence is to be issued:

- by a competent authority of the Member State in whose territory the cultural object was lawfully and definitely located on 1 January 1993; or
- thereafter, by a competent authority of the Member State in whose territory it is located following either lawful and definitive dispatch from another Member State, or importation from a third country, or reimportation from a third country after lawful dispatch from a Member State to that country.

According to Article 2(3) of Regulation (EC) No 116/2009, export licences are valid throughout the Union.

Export licences issued by the United Kingdom on the basis of Union law are no longer valid after the end of the transition period for shipments of cultural goods from an EU Member State to a third country. Where this leads to the re-issuance by a competent authority of an EU Member State of an export licence previously issued by the competent authority of the United Kingdom, this re-issuance can take account of that previous licence.

2. RESTRICTIONS OF INTRODUCTION AND IMPORT

Article 3(1) of Regulation (EU) 2019/880, which prohibits the introduction into the Union of cultural goods illegally exported from a third country, will become applicable as of 28 December 2020. After the end of the transition period, the introduction in the EU from the United Kingdom of illegally exported cultural goods originating there or in any other third country will therefore become subject to this general prohibition.

In the longer term,¹¹ the import in the EU from the United Kingdom of cultural goods created or discovered there or in any other third country will be subject to an import licence for the goods listed in Part B of its Annex (Article 4) and, for the goods listed in Part C of its Annex, to the submission of an importer statement to EU customs.

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

¹¹ After the creation of the centralised electronic system referred to in Article 8 of Regulation (EU) 2019/880 and by 28 June 2025 at the latest, Article 16(2)(b) of Regulation (EU) 2019/880.

as intra-Union movements regarding importation and exportation licencing requirements in EU law.

Example:

A cultural good, 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 as if it was a movement between two Member States (i.e. no requirement for a licence).

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.¹² 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.¹³

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.¹⁴

The IE/Ni Protocol provides that Regulation (EC) No 116/2009 applies to and in the United Kingdom in respect of Northern Ireland.^{15 16}

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:

- A movement of cultural goods from the EU to Northern Ireland is not an export for the purposes of Regulation (EC) No 116/2009;
- A movement of cultural goods from Northern Ireland to a third country or to Great Britain is an export for the purposes of Regulation (EC) No 116/2009.¹⁷

¹² Article 185 of the Withdrawal Agreement.

¹³ Article 18 of the IE/Ni Protocol.

¹⁴ Article 7(1) of the Withdrawal Agreement in conjunction with Article 13(1) of the IE/Ni Protocol.

¹⁵ Article 5(4) of the IE/Ni Protocol and section 47 of annex 2 to that Protocol.

¹⁶ A listing of Regulation (EU) 2019/880 in section 47 of annex 2 to the IE/Ni Protocol is being proposed by the Commission (Article 164(5)(d) of the Withdrawal Agreement).

¹⁷ The obligation in relation to exports in Regulation (EC) No 116/2009 is required by international obligations of the Union (1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property), cf. Article 6(1) of the IE/Ni protocol.

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;¹⁸ and
- invoke mutual recognition of licences issued by the United Kingdom in respect of Northern Ireland.¹⁹

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

- An export licence issued by the United Kingdom in respect of Northern Ireland cannot be invoked for shipments from the EU to a third country.

The website of the Commission on EU rules for export of cultural goods (https://ec.europa.eu/taxation_customs/business/customs-controls/cultural-goods_en) provides general information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Taxation and Customs Union

¹⁸ 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.

¹⁹ First subparagraph of Article 7(3) of the IE/Ni Protocol.