



## Q&A – United Kingdom (UK) Exit from the European Union

# Cosmetics & Detergents

November 2018

### 1. When will the UK exit the European Union?

On 29 March 2017, the United Kingdom notified the European Council of its intention to leave the European Union, in accordance with Article 50 of the Treaty on the European Union. Article 50 provides that the country leaving the EU shall leave at the latest two years after the notification of intention to leave, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period. As such, the UK shall leave the EU no later than the **30 March 2019**, at midnight.

In the meantime, the UK remains a full member of the EU. This means that all existing EU rights and obligations continue to apply to the UK.

The terms of the exit of the UK will set out in a [Withdrawal Agreement](#), to be signed by both parties (EU and UK) before 30 March 2019. The agreement will regulate all matters pertaining to the withdrawal, such as citizen's rights, financial settlements, the Northern Ireland border and a potential transition period.

The European Council has at several occasions stated that nothing is agreed until everything is agreed. Therefore, until there is a final withdrawal agreement signed and ratified by all parties, all possible outcomes need to be considered by companies.

Currently there are two principal outcomes – “Hard Brexit” & “Soft Brexit”.

Soft Brexit would mean staying within the single market and the customs union, keeping the UK closely aligned with the EU legislation and trading tariffs. Alternatively, a Hard Brexit would mean leaving the single market and the customs union.

The uncertainties regarding the outcome should be considered in companies' contingency planning. There is still today a potential risk that no agreement is found and that an exit without an agreement happens (Hard Brexit) as early as in March 2019.

### 2. Will there be a transition period after the UK withdrawal?

In the case of a deal, a transition period is foreseen until 31 December 2020 in the current draft withdrawal agreement; this date remains to be fully confirmed in the final withdrawal agreement. During this transition period, Union law would be applicable to the UK and the UK would maintain all the advantages of the Single Market and the Customs Union. However, the UK would not be part

of the decision-making process of the EU any longer (e.g. no participation to and no vote in the Council and no participation in any EU expert groups, including in EU Agencies except if invited as an observer).

No transition period has been agreed in the case of a Hard Brexit and no deal.

If there is withdrawal agreement, Irish Companies will need to ensure compliance with UK and EU regulatory frameworks by March 30<sup>th</sup> 2019. If there is a deal then companies will need to adapt their products to ensure compliance with the EU and UK regulatory frameworks, by the end of the agreed transition period.

### **3. What will happen with cosmetics and detergents placed on the Irish and UK markets at/after the day of the exit?**

If there is an agreement on a transition period, Union law would continue to be applied both on the Irish and the UK markets during this phase. Companies would need to adapt their products to ensure compliance with both the Irish and UK regulatory frameworks by the end of the transition period.

The current draft withdrawal agreement provides that a good lawfully placed on the Irish market or the UK market before the end of the transition period may be further made available on the Irish/UK markets and circulated between these two markets until it reaches the end-user. The economic operator will bear the burden of proof for showing that the placing on the market took place before the end of the transition period.

The concept of “placing on the market” refers to each individual product and not to types of products. For more information on the concept of placing on the market, see Chapter 2 of Commission Notice 2016/C 272/01 “The Blue Guide on the implementation of EU Product Rules”, published at the following [link](#).

### **4. What about the new legislation in the UK? Will it be identical to the EU legislation?**

The UK authorities are in the process of publishing [technical guidance documents](#) outlining what is required for products and chemicals if UK leaves the EU with no deal. There are plans to duplicate the EU regulation under UK law with UK portals for registrations for chemicals and cosmetics.

Duplication of the EU Regulation under UK law will, however, have consequences for EU based companies exporting to the UK. In particular the requirements mentioned under Questions 5 & 6 (appointing a Responsible Person and ensuring compliant labelling) would be mirrored for products exported from the EU to the UK. Products from the EU would also need to be notified under any future notification scheme established in the UK.

### **5. My company is based in the UK and is placing cosmetics on the Irish market. Does it need a Responsible Person in the EU following the withdrawal?**

Upon its departure from the EU, the UK will become a third country, non-member of the EU. During a transition period (if such period is agreed), the UK will still be treated as if it was an EU member. However, thereafter, all cosmetic products that continue to be placed on the EU market by UK-based companies will be considered as imports from a third country. They need to (continue to) be fully compliant with the EU regulatory framework. This means essentially that any UK-based company exporting cosmetics to the EU shall designate a Responsible Person in the EU who must ensure that the product complies with all EU-requirements, as per article 5 of the Cosmetics Products Regulation.

The responsible person established in the EU may be a subsidiary of the UK Company, distributor importing the product or a third party responsible person organisation. Companies are advised to identify as early as possible their future Responsible Person in the EU and prepare for the move of responsibility from the UK to the EU based responsible person. Further information can be found in the Commission' Information notice in the field of industrial goods following the UK withdrawal, published at the following [link](#).

#### **6. My company is based in Ireland and is placing cosmetics on the UK market. Does it need a Responsible Person in the UK following the withdrawal?**

The European Union (Withdrawal) Bill will convert EU law as it stands at the moment of exit into UK law before the UK leaves the EU. Duplication of the EU Regulation under UK law will, however, have consequences for EU based companies exporting to the UK and as per the UK technical guidance notes ([here](#)). A Responsible Person will have to be based in the UK to be able to continue to sell cosmetics on the UK market. This means essentially that any Irish-based company exporting cosmetics to the UK shall designate a Responsible Person in the UK who must ensure that the product complies with all the future UK-requirements.

The Responsible Person established in the UK may be a subsidiary of the EU Company, distributor importing the product or a third party responsible person organisation. Companies are advised to monitor the development of the future UK legislative landscape and to identify as early as possible their future Responsible Person in the UK and prepare for the move of responsibility from the EU to the UK based responsible person.

#### **7. My company is selling products both in UK and Ireland market – with what rules do they have to comply?**

Companies that are selling detergent and/or cosmetics in both UK and Ireland market will have to comply with both set of rules.

#### **8. Does my UK based company need to re-label its products after the exit?**

Any cosmetic product sold in the Republic of Ireland needs to be compliant with the EU regulatory framework. As a consequence, upon the withdrawal, UK-based companies exporting to the Republic of Ireland may need to re-label their products to be compliant with EU-regulations, for example by

including on the label the address of the EU-based Responsible Person, as well as to include the country of origin (i.e. UK for products manufactured in the UK).

To the extent necessary, companies may already now take actions by implementing a dual labelling option, including both a EU-27 address, as well as an underlined UK address (provided the PIF is still accessible in the UK) and including a “made in UK”, label. This labelling is acceptable today from an EU-regulatory perspective and will work post-Brexit also.

The new UK regulatory regime for cosmetics is under development. Companies will therefore need to remain vigilant as to the development of a new UK cosmetics legislation. More information can be found on the website of CTPA ([www.ctpa.org.uk](http://www.ctpa.org.uk)).

Any detergent product sold in the Republic of Ireland needs to be compliant with the EU regulatory framework; website on which the list of ingredients is available for consumers, postal address and the telephone number of the manufacturer and distributor within the member state (if different from manufacturer) on the pack.

#### **9. Does my Irish-based company need to re-label its product after the exit?**

Any cosmetic product sold in the UK would need to be compliant with the UK regulatory framework (technical guidance found [here](#)). As a consequence, upon the withdrawal, Irish-based companies exporting to the UK will need to re-label their cosmetic products to be compliant with UK-regulations for example by including on the label the address of the UK-based Responsible Person, as well as to include the country of origin.

Any detergent product sold in the Republic of Ireland needs to be compliant with the EU regulatory framework. Companies should remain vigilant to any developments through the UKCPI website (<http://www.ukcpi.org>).

#### **10. I am a UK based cosmetic company which notified a cosmetic product under CPNP and placed it on the Irish market. Is this notification valid post Brexit?**

CPNP notification done previously by Responsible Person based in the UK will become void after the transition period or March 29<sup>th</sup> 2019 if no deal, when the UK will be fully treated like a third country. UK Responsible Persons will lose access to CPNP and their products that continue to be placed on the EU market need to be re-notified by the EU based responsible person (i.e. the importer from the UK). Companies are advised to start re-notification as soon as they have appointed their responsible person in the EU. It is possible that the CPNP may be overloaded with a too high number of re-notifications towards the end of the transition period.

#### **11. What are my obligations if I import detergents from the UK?**

For a company buying detergents directly from the UK, their role will change from that of a downstream user or a distributor to an importer following the UK's withdrawal from the EU. In addition to the REACH obligations, the Irish importing company will be responsible for ensuring that any surfactants used in a detergent is fully biodegradable and the detergent is classified, labelled and packaged correctly. In addition, anyone importing laundry and dishwasher detergents must

comply with the ban on inorganic phosphates introduced in the EU Detergent Regulation update in 2012 (No 259/2012).

**12. My company is UK- based and will be exporting products to Ireland post-Brexit. Will it need to pay customs duties when entering the EU market?**

It is today unknown how the future trading relationships between the EU and the UK will be defined. The overall understanding of the framework for the future trade relationship will be elaborated in a political declaration accompanying and referred to in the Withdrawal Agreement. The terms of a trade agreement between the EU and the UK will be negotiated based on that understanding, once the UK is no longer an EU Member State (i.e. as from March 30<sup>th</sup>, 2019).

Upon Brexit, the UK will need to agree its own set of schedules at the WTO. A sensible approach would be to replicate the existing EU trade regime as far as possible in the new schedules to involve minimal disruption. The EU has today bound its tariffs at zero per cent in WTO commitments for most cosmetics product categories. Tariffs (6.5%) are still applicable to three categories of final products: shaving products, deodorants/antiperspirants and bath salts/bath preparations. Industry is aiming for 0% tariffs for all cosmetics product categories in a future free trade agreement between the EU and the UK.

**13. My company is Ireland based and will be exporting products to the UK post-Brexit. Will it need to pay customs duties when entering the UK market?**

The UK Taxation (Cross-border Trade) Bill is designed to allow the UK to set and collect customs duty on goods imported into the country, including preferential or additional duties where appropriate. This bill, would allow the UK government to charge and vary customs duty on goods, to specify which goods are subject to what duty, and to set preferential or additional duties in certain circumstances. In the UK the majority of sectors including cosmetics & detergents are seeking tariff-free trade with EU.

**14. What will my company's obligation under REACH be following the UK withdrawal?**

The UK withdrawal from the EU will have consequences on UK and EU cosmetics companies' obligations under REACH as well as creating challenges across the supply chain. EU27 businesses that will be buying goods from the UK will need to assess any changes to their status under REACH. For further very detailed information on this topic, please consult ECHA's website ([link](#)) specifically dedicated to Brexit. For UK information please consult the UK website and technical guidance document [here](#).

**15. Preparedness Reference documents published by the European Commission and UK**

The European Commission published on 19th July 2018 a set of documents on the preparation for the UK withdrawal, to be found [here](#). The UK has published technical guidance documents which can be found [here](#).

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## Further information

Product Type	Relevant legislation	Irish Competent Authority	UK Competent Authority
Cosmetics	Cosmetics Regulation (EC) No. 1223/2009	Health Products Regulatory Authority ( <a href="#">HPRA</a> )	Department of Business Innovation and Skills ( <a href="#">BIS</a> )
Detergents	Detergent Regulations (EC) No. 648 of 2004, (EC) No.259 of 2012, (EC) No. 551 of 2009 and (EC) No. 907 of 2006	The Health and Safety Authority ( <a href="#">HSA</a> )	The Health and Safety Executive ( <a href="#">HSE</a> )
Chemicals, CLP & REACH	CLP Regulation (EC) No. 1272/2008 Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation (EC) No. 1907/2006	The Health and Safety Authority ( <a href="#">HSA</a> )	The Health and Safety Executive ( <a href="#">HSE</a> )
Biocides	Biocidal Products Regulation (EU) No. 528/2002	Department of Agriculture, Food and Marine ( <a href="#">DAFM</a> )	The Health and Safety Executive ( <a href="#">HSE</a> )