

NOTIFIABLE BODIES UNDER EU CONFORMITY ASSESSMENT/TESTING ARE ESSENTIAL FOR EU TRADE: By Nigel Moore [as edited for concordanceout.eu] May 2018. V3

FREE TRADE and Nobos Debos Asbos

Free Trade is impossible between the UK and the EU unless there is not only REGULATORY ALIGNMENT but also CERTIFICATION by an authorised NOTIFIABLE BODY [a “Nobo”] that the outcome of the EU assessment/testing was fully compliant for the UK trade crossing the Eu borders.

A wide range of products - from equipment used in explosive atmospheres to Rolls Royce engines to toys - are required by EU product law to undergo third party conformity assessment and/or testing by suitable approved and independent Nobos, accredited to EU organisations, in order to be placed on the market in the **European Union (EU)** and often by extension in the EEA [the EEA includes all the EU and Norway, Iceland and Liechtenstein but not Switzerland*]. This is to ensure that they meet EU legal requirements, which often includes compliance with specified requirements in **European Standards (ENs)**.

This pre-condition to EU trade assessment, depending upon the relevant EU product legislation and ENs, may require continuing surveillance (of manufacture) and testing of the product by the Nobo. Certification can also be time limited as well, requiring reassessment after a number of years. [Please see the article on Rolls Royce relocation on Brexit from UK to the EU.]

Over the years, the EU has increased the scope of its legislation, which may in part originate elsewhere in world bodies or agreements and it carries out periodic updates of existing product legislation. Most of these EU trade rules come from WTO bodies anyway on which only the EU sole representative sits. No EU member country sits on these WTO bodies but on the contrary every EFTA member does so as of right. Norway not only sits on the WTO fisheries committee but chairs its meetings in Oslo. The UK is not permitted or invited!

UK owned Nobo activity businesses in the UK are a profitable success story and also successful at exporting their services.

Mrs May’s “trashing” of the Successful UK Nobo Industry

Notified Bodies (Nobos), together with Designated Bodies (Debos) and Assessment Bodies (Asbos) are one of the UK’s least known success stories. Yet they could easily largely disappear, together with thousands of well-paid jobs and millions, if not billions, of pounds in export earnings, if Mrs May persists in her determination to take this country out of the Single Market and European Economic Area (EEA) upon Brexit. An EEA transition stepping stone is what is required rather than the UK vassal state of May Purgatory-Destination chosen by the PM.

UK based Nobos, acting as an accredited third party undertaking testing and certification have been successful worldwide. They have provided, for example, confidence and certification that safety, environmental impact and energy consumption have been independently assessed. Sadly the UK will face a damaging financial and economic handicap if Nobos cannot operate here as a sole result of unwise [political decisions](#) of

the May government and thereby keeping the UK out of the EEA and EFTA.

Why is that?

Nobos need to be resident in the EEA, Switzerland or Turkey, and be accredited with relevant competence(s). They are listed on the EU's [NANDO](#) database. Each Member State also has an accreditation organisation which regularly checks the competence of Nobos to carry out assessment and testing work. **The UK-based list of Nobos includes famous and respected names such as British Standards Institute (BSI), Lloyd's Register, the National Physical Laboratory and The Vehicle Certification Agency.** There are also many others which are less well known, smaller organisations in the private and public sectors.

However on Brexit the PM is ensuring that all these accreditations will be immediately deemed to be terminated and unlawful under EU rules. This applies to the **BSI** which also will not be recognised by the EEA nor permitted to sit on EU standards organisations like **CEN, CENELEC** and others.

UK-based former EU Nobos could then see much of their work disappear after Brexit in March 2019, including any work related to putting products on the UK market. The Annex to the EU's [Notice to stakeholders withdrawal of the United Kingdom and EU rules in the field of industrial products](#) lists the EU product categories covered. This, however, may be just the 'tip of the iceberg' since; depending upon the EU product legislation, components making up a particular product may also need some form of independent conformity testing and inspection. Manufacturers or suppliers may also like to use a '**one stop shop**' approach developing a longer term relationship with one Nobo [outside the UK] to cover a wide range of their independent conformity, testing and quality assessment requirements, not merely to comply with EU product legislation.

Accordingly, prudent UK-based Nobos could already have started transferring work and jobs to other EEA members in order to retain existing EU based customers. They may also consider working through an EU-based Nobo who will 'rebadge' their work and obviously charge for so doing. This would in turn undermine their selling point - competitiveness.

Mutual Recognition Agreements [MRA's]

MRA's are legally enforceable as they are regarded as a treaty. They permit a product with a conformity certificate issued by an accredited Nobo in one Member State to be accepted in all other EEA states, as well as Switzerland and Turkey, without further assessment or testing. Sometimes, however, a product may undergo further assessment as part of an overall system, but this is not intended to repeat previous work.

This interlocking system is all part of the strict EU laws of **Conformity**. You hear nothing of Conformity in the ill-informed media or in Parliament. Why Not? You also hear nothing of Sanitary or Phytosanitary certificates and the cessation of free travel after Brexit without these certificates. E.g. Of racehorses between the UK and the EU.

EU Notices to Stakeholders.

Recently the European Commission has published guidance for manufacturers and

Nobos for the period after 29th March 2019 called [Notice to stakeholders withdrawal of the United Kingdom and EU rules in the field of industrial products](#). [Please see them referred to elsewhere on this concordanceout.eu web site. There are now over 62 of them issued. The UK has done nothing similar and businesses are being damaged as they cannot plan without similar non-existent UK notices.] After this date Nobos registered in the United Kingdom (as a ‘third country’ outside the EEA) will lose their EU Nobo status and be removed from the EU’s database.

Hence the **Civil Aviation Authority [CAA]** will lose its accreditation and its certificates of approval will all then also expire forthwith. Planes without proper certificates will be grounded. Their **Rolls Royce** engines will not be flown until re-certified. Hence Rolls Royce is re-locating to the EU for these purposes. O’Leary has taken similar effective preventions for his Northern Irish airline.

After March 2019 Brexit

A manufacturer (or supplier) of a product requiring third party conformity assessment after 29th March 2019 will have to use a Nobo based in the EEA, Switzerland or Turkey in order to place a new or modified product on the EU market. When placing a new or modified product on the UK market, the manufacturer is likely to opt for an EEA- or Switzerland-based Nobo for all conformity assessment to prevent duplication of work and costs.

Mrs May intends that after Brexit (if it ever happens instead of [EU Vassal State status](#)) UK legislation (presumably including product legislation) will follow EU legislation and apply to the whole UK and not just the 7% of UK GDP that is involved in exports to the EU? Why bother and damage UK profits with these overheads of 100% of EU Regulations and Directives? This is damaging to the UK, especially if free trade with UK certification is not to be allowed? Why would she do it? She does not understand the details or the way that the EU governs its members.

If the UK, which is in the EEA, merely re-joined EFTA then not only would the return to EFTA be easy and no £40 Billion joining fee [and much more] but also only 15-20% of the EU Regulations and Directives would be followed thereafter as is the case with Norway. Only that 15-20 percentage applies to the trade between the EU and EFTA members. Only that percentage would be compulsory.

Summary and Conclusion

The potential loss of UK and EU markets for UK based Nobos would not arise if Mrs May had not made such a rash decision in ruling out any on-going membership of the EEA, The Single Market and EFTA after Brexit. **She spoke at a time when she knew not of what she spoke.** It is doubtful that she knows even now.

The PM could have decided after Brexit on 29th March 2019 to re-join the European Free Trade Association (EFTA) and so provide a breathing space or a necessary stepping stone and time to sort and negotiate and achieve a Successful Brexit. And now?....!!.

Remaining in the EEA and EFTA (whilst outside the EU) but under [different conditions](#)

would also allow, for example, unilateral control of immigration (see Chapter 4, Schedule 112 *The Safeguard Measures* in the [EEA Agreement](#)).

Is this PM beginning to see the solution to her self-made problems? Let us hope so.

***EFTA Member States: Iceland, Liechtenstein, Norway and Switzerland.**