

Exporting Controlled Goods if NO Deal 24 8 2018

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A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and

preparations.

This guidance is part of that series.

Also included is an [overarching framing notice](#) explaining the government's overarching approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit in all scenarios.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

## **Purpose**

The [Export Control Joint Unit](#) (ECJU) is responsible for the UK's system of export controls on military items, dual-use items (items with both civil and military uses), civilian firearms, and items usable for torture. These items are regulated through a system of export licensing.

The export of many controlled items within the EU does not require a licence. If the UK leaves the EU without a deal, licences would be required for export of these items from the UK to EU countries.

## **Before March 2019**

### **Military items**

You currently need a licence to export items on the UK Military List to any destination, including EU countries.

Controls on military items (goods and technology) are currently implemented by UK law (Export Control Act 2002, Export Control Order 2008).

## **Firearms**

You need a licence to export firearms from the UK, except if you are an individual with a European Firearms Pass taking personal firearms from one EU member state to another. This is outlined under Council Directive 91/477/EEC.

The export of firearms to countries outside the EU is regulated by Council Regulation 258/2012. The Export Control Order 2008 also contains an exemption for the temporary export of firearms as personal effects from the UK to countries outside the EU.

## **Dual-use items**

Other than for a small number of sensitive items, no licence is required to move dual-use items between the UK and other EU countries. These sensitive items are listed in Annex IV of the dual-use regulation, Council Regulation 428/2009.

Dual-use items are items which can be used for both civil and military applications. They are:

- goods
- software
- technology
- documents
- diagrams

Dual-use items include:

- raw materials – for example, chemicals
- components – for example, bearings
- complete systems – for example, lasers

Dual-use items could also be items used in the production or development of military goods, such as machine tools, civil nuclear equipment, chemical manufacturing equipment or computers.

## **Goods usable for torture or capital punishment**

You should be aware of strict controls on the export of goods which could be used for the following:

- capital punishment
- torture
- other cruel, inhuman or degrading treatment or punishment.

These controls are implemented in the UK through Council Regulation 1236/2015. The UK was instrumental in achieving agreement in the EU on these controls and remains firmly committed to their implementation.

There are only limited circumstances in which trading this type of good is legitimate. The regulation therefore prohibits the export of these items outside the EU without a licence. You cannot export goods which have no practical use other than torture (Annex II items), except if they are destined for museum display.

## **After March 2019**

In the unlikely event the UK were to leave the EU in March 2019 without a deal, find out how this would affect you.

### **EU regulations**

Current regulations would continue to apply in the same way as they do now, except that they would apply to exports from the UK rather than to exports from the EU Customs Territory.

EU regulations on the export of civilian firearms, dual-use items and goods that may be used for torture or capital punishment would become UK regulations as retained EU law under the EU (Withdrawal) Act 2018.

## **Military items**

There would be no changes to controls on the export of military items from the UK other than minor legislative fixes, as EU regulations do not apply in this area.

## **Firearms**

The European Firearms Pass would no longer be available for UK persons taking their personal firearms to the EU.

The exemption that currently applies to the temporary export of firearms as personal effects to the rest of the world would be extended to exports to the EU. If you were seeking to take firearms as personal effects to an EU country you would need to ensure that the destination country would also permit the re-export of the firearm.

Dealers and other exporters of firearms would need to continue to apply for licences as they do now.

## **Dual-use items**

The overall framework of controls of dual-use exports would not change, but there would be changes to some licensing requirements:

- The movement of dual-use items from the UK to the EU would require an export licence. This is not currently the case and these movements would, therefore, need to be licensed in the same way as for non-EU destinations.
- Extant export licences issued in the UK would no longer be valid for exporting dual-use items from EU member states. A new licence, issued by an EU member state, would be required.
- Extant export licences issued by the 27 EU countries would no longer be valid for exporting dual-use items from the UK. A new licence, issued by the UK, would be required.

If you are exporting civil nuclear material, you should refer to

these BEIS technical notices to see what other conditions would apply besides export controls:

- [Civil nuclear regulation if there's no Brexit deal](#)
- [Nuclear research if there's no Brexit deal](#)

## **Goods usable for torture or capital punishment**

The overall framework of controls on these goods would not change, except that exports to EU countries would be treated in the same way as exports to non-EU destinations are treated now.

This entails the following changes:

- the export of items in Annex II to Council Regulation 2016/2134 to EU member states would be prohibited
- providing brokering, training or advertising services relating to items in Annex II to Regulation 2016/2134 to any person or entity in an EU member state would be prohibited
- licences would be required to export to EU member states the items in Annexes III & IIIA to Regulation 2016/2134.

## **Implications**

Exporters to EU countries should check whether the items they export may be subject to control. [Check if you need an export licence](#).

To understand what controls would apply, licensing provisions in current legislation for a “third country” (a non-EU country) can be taken as a guide to the licensing provisions for exports to EU countries in the case of a ‘no deal’ scenario.

## **Obtaining a licence**

The ECJU provides information on controls and licensing.

In addition to currently available licences, most exporters of dual-use

items would be able to register to use an Open General Export Licence designed specifically for exports to EU countries. This licence would remove the need for you to apply for individual licences and could be used immediately following a straightforward registration process.

In a 'no deal' scenario, the ECJU would publish the new Open General Export Licence in advance of the UK leaving the EU, along with further information on how to register to use it.

Exporters requiring individual licences would also be able to apply for these licences in advance of the exit date. Further guidance on this would be issued in advance of the UK leaving the EU.

If you are exporting controlled items then you should plan to put in place internal processes to ensure compliance. You should [refer to guidance](#) from the ECJU about how to apply for a licence.

## Further information

You can sign-up to the mailing list for 'notices to exporters' to be informed of changes in licensing requirements.

For general guidance on export controls, contact the ECJU:

email: [eco.help@trade.gov.uk](mailto:eco.help@trade.gov.uk)

helpline: +44 (0) 20 7215 4594

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.

The UK government is clear that in this scenario we must respect our unique relationship with Ireland, with whom we share a land border and who are co-signatories of the Belfast Agreement. The UK government has consistently placed upholding the Agreement and its successors at the heart of our approach. It enshrines the consent principle on which Northern Ireland's constitutional status rests. We recognise the basis it has provided for the deep economic and social cooperation on the island of Ireland. This includes North-South cooperation between Northern Ireland and Ireland, which we're committed to protecting in line with the letter and spirit of Strand two of the Agreement.

The Irish government have indicated they would need to discuss arrangements in the event of no deal with the European Commission and EU Member States. The UK would stand ready in this scenario to engage constructively to meet our commitments and act in the best interests of the people of Northern Ireland, recognising the very significant challenges that the lack of a UK-EU legal agreement would pose in this unique and highly sensitive context.

It remains, though, the responsibility of the UK government, as the sovereign government in Northern Ireland, to continue preparations for the full range of potential outcomes, including no deal. As we do, and as decisions are made, we'll take full account of the unique circumstances of Northern Ireland.