



No: 224/2019

Date: 28th March 2019

Technical Notice – No Deal Brexit – Shipments of Waste

In November 2018, the European Union (the “EU”) and the United Kingdom (the “UK”) concluded the terms of a Withdrawal Agreement providing for the UK’s orderly departure from the EU. Gibraltar forms part of these arrangements. The Agreement includes a transition period until the end of 2020. The transition period would also apply to Gibraltar. The Agreement has been debated and voted upon at length but it is still subject to ratification by the UK Parliament and the European Parliament.

The door is now open for a short extension to the Article 50 process. There will be an extension to 22 May if the Withdrawal Agreement is approved. The extension will run to 12 April if the Withdrawal Agreement is not approved.

In the meantime, HM Government of Gibraltar (“HMGoG”) continues to plan for the eventuality that the UK and Gibraltar may leave the EU without this Agreement.

Purpose

If the UK and Gibraltar leave the EU without a deal both the UK and Gibraltar will no longer be covered by EU waste law. Gibraltar will, in effect, become a third country vis-a-vis the EU in so far as matters concerning the shipments of waste are concerned. The purpose of this Notice is to explain the consequences of these changes.

Existing Position

Under the current position where Gibraltar is covered by EU legislation, Regulation (EC) No 1013/2006 on the shipment of waste (the “Transfrontier Shipments of Waste Regulation” or “TSW Regulation”) applies to Gibraltar. The TSW Regulation implements the provisions of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and the Disposal (the “Basel Convention”) through which international shipments of waste are controlled through a process of prior written consent. The TSW Regulation also incorporates into EU legislation the Organisation for Economic Co-operation and Development decision (C (2001) 107) (the “OECD Decision”) on the control of transboundary movements of wastes destined for recovery operations. It is on the basis of the TSW Regulation that Gibraltar ships waste to other EU Member States, including Spain.

Gibraltar mainly implements the TSW Regulation via Part IIB of the Public Health Act.



If there is a Withdrawal Agreement

If the Withdrawal Agreement enters into effect the status quo would remain up to the end of the transition period – that being 31 December 2020.

If there is no Withdrawal Agreement

- *Validity of existing approvals to ship notified waste to, from and through the EU*

It was originally envisaged that current approvals to ship notified waste between Gibraltar and the EU, which extended beyond the date of a No-Deal exit, would have had to have been subject to a re-approval process. However, the UK Government has secured an agreement that all UK and Gibraltar consents for shipments of notifiable waste that go beyond 12 April 2019 will be rolled over without the need for re-approval. HMGoG has ensured that this covers current approvals granted to Gibraltar exporters with respect to shipments to Spain.

- *Waste shipments from Gibraltar to the EU including Spain*

After the UK and Gibraltar's withdrawal from the EU, the Basel Convention will continue to apply to Gibraltar and Gibraltar will continue to apply the OECD Decision.

Gibraltar will be treated the same way as any other OECD country or any country party to the Basel Convention that intends to export waste to an EU country. The current waste shipments procedures will therefore still apply and you are advised to contact the Environmental Agency for further information.

If you are an exporter, you will need to make yourself aware of the EU Customs Guidelines and the EU Waste Shipment Regulations. These explain the rules for EU waste imports from outside the EU.

They require:

- waste exporters to complete waste notification and waste movement forms with details of the Customs Office of Entry into the EU;
- waste carriers to provide a copy of the waste movement document to the Customs Office of Entry into the EU; and
- Gibraltar exporters to check that any transport of waste within the EU is carried out by authorised waste carriers.

Before you submit a notification to the Environmental Agency for export waste to the EU for disposal or recovery, HMGoG must submit a duly reasoned request (a "DRR") to the relevant EU competent authority. The DRR explains why Gibraltar does not have, or cannot provide the required disposal or recovery facilities. The impact of the new requirement to submit a DRR will be minimal. The rules for shipping waste for recycling will stay the same.

Further information



This Notice is meant for guidance only.

Further information can be sought from the Environmental Agency:

Email: admin@eag.gi

Telephone: 200 70620