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Rev1

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF FERTILISERS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement¹ establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.²

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, economic operators in the field of fertilisers are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of EC fertilisers³, in particular Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers,⁴ will no longer apply to the United Kingdom. This has in particular the following consequences in the area of EC fertilisers placed on the EU market as of the withdrawal date:⁵

¹ Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

² A third country is a country not member of the EU.

³ An "EC fertiliser" is a fertiliser belonging to a type of fertilisers listed in Regulation (EC) No 2003/2003 and complying with that Regulation.

⁴ OJ L 304, 21.11.2003, p. 1.

⁵ In the context of the negotiations of the EU-UK withdrawal agreement, the EU is trying to agree solutions with the United Kingdom concerning goods placed on the EU market *before* the end of the transition period. See, in particular, the latest text of the draft withdrawal agreement agreed at negotiator's level, which is available here: https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf.

1. RESPONSIBILITIES FOR IMPORTERS

According to Article 2(x) of Regulation (EC) No 2003/2003, a manufacturer is the person responsible for placing a fertiliser on the EU market.⁶ The notion covers not only a producer, but also an importer.

According to Article 4 of Regulation (EC) No 2003/2003, manufacturers of fertilisers shall be established in the Union, and take responsibility for the conformity of EC fertilisers with that Regulation. The manufacturer is also responsible for providing EC fertilisers with identification markings (Article 7 of Regulation (EC) No 2003/2003), ensuring traceability (Article 8 of Regulation (EC) No 2003/2003), and complying with the specific rules for ammonium nitrate fertilisers of high nitrogen content (Articles 26 and 27 of Regulation (EC) No 2003/2003).

As of the withdrawal date, a manufacturer established in the United Kingdom will no longer be an economic operator established in the EU. As a consequence, an economic operator established in the EU-27 and placing EC fertilisers coming from the United Kingdom on the EU-27 market, until then considered as a distributor, will become an EU importer in relation to such products. This operator will therefore have to comply with the above-mentioned obligations for manufacturers.

2. MARKINGS

According to Article 9(1)(a), 11th indent, of Regulation (EC) No 2003/2003, packages, labels and accompanying documents of fertilisers shall bear the name or trade name and address of the manufacturer.

If, prior to the withdrawal date, the manufacturer was established in the United Kingdom, the marking of the manufacturer on the packages, labels and accompanying documents has to be changed accordingly.

The website of the Commission on the EU legislation for chemicals legislation (https://ec.europa.eu/growth/sectors/chemicals/legislation_en) provides for general information concerning fertilisers. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

⁶ By contrast, a distributor who does not change the characteristics of the fertiliser shall not be deemed to be a manufacturer, Article 2(x) of Regulation (EC) No 2003/2003.