

Memorandum of understanding between HSE, HSENI, Home Office - Border Force and HMRC on enforcement arrangements at the border in relation to the export and import of chemicals listed in the PIC Regulation

In this Memorandum of Understanding:

“HSE” means the Health and Safety Executive;

“HSENI” means the Health and Safety Executive for Northern Ireland;

“Border Force” is a law enforcement command within the Home Office;

“HMRC” means Her Majesty’s Revenue and Customs;

“the PIC Regulation” means Regulation (EU) No. 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals;

“the BPC Regulations” means the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (SI 2013/1506);

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978;

Other expressions used in this Memorandum of Understanding have the same meaning as they have in the PIC Regulation.

1. This Memorandum of Understanding is between HSE, HSENI, Border Force and HMRC in respect of enforcement of the PIC Regulation and the PIC elements of the BPC Regulations. It establishes a framework for enforcement of the PIC Regulation at the border and for liaison, collaborative working, and sharing of information and intelligence.

HSE and HSENI are the UK Designated National Authorities under regulation 7 of the BPC Regulations, with responsibility for controlling the export and import of chemicals listed in the PIC Regulation.

Border Force is the UK authority with responsibility for operational control at the border.

HMRC is the UK authority with responsibility for customs clearance and export control.

2. HSE, HSENI, Border Force and HMRC agree to work collaboratively, sharing information and intelligence when necessary and where legal gateways exist, and in accordance with their respective data sharing policies, with the aim of preventing the export and import of chemicals listed in the PIC Regulation otherwise than in accordance with the requirements of that Regulation.

In particular, HSE will:

- via a nominated email account, provide advice to Border Force and HMRC, as appropriate, on the interpretation of import and export requirements and non-urgent technical assistance;
- in an emergency, provide urgent advice and technical assistance by telephone to Border Force and HMRC;
- in accordance with its responsibilities under regulations 7(b) and 22 of the BPC Regulations, take action, as appropriate, on receipt of any information or intelligence from HSENI, Border Force, HMRC or other sources about the movement of chemicals listed in the PIC Regulation that is not in accordance with the requirements of that Regulation;

- consult HSENI, Border Force and HMRC, where appropriate, on issues of policy development or implementation under the PIC Regulation.

HSENI will:

- in accordance with its responsibilities under regulations 7(b) and 22 of the BPC Regulations, take action, as appropriate, on receipt of any information or intelligence from HSE, Border Force, HMRC or other sources about the movement of chemicals listed in the PIC Regulation that is not in accordance with the requirements of that Regulation;
- consult HSE, Border Force and HMRC, where appropriate, on issues of policy development or implementation under the PIC Regulation.

Border Force will:

- in accordance with its powers under the 1974 Act and the 1978 Order, as applied to the PIC Regulation by regulations 19(1), 19(2)(c), 20(1) and 20(2)(c) of the BPC Regulations, detain for not more than two working days shipments that are believed not to comply with the requirements of the PIC Regulation, pending further enquiries and/or examination by HSE or HSENI;
- be involved in any consultations necessary to enable HSE and HSENI to carry out their Designated National Authority role, including developing the legislative framework.

HMRC will:

- aim to deter and detect exports of chemicals listed in the PIC Regulation that are not in accordance with the requirements of that Regulation by carrying out checks on documentation relating to exports and imports to non-EU countries;
- in accordance with its powers under the 1974 Act and the 1978 Order, as applied to the PIC Regulation by regulations 19(1), 19(2)(c), 20(1) and 20(2)(c) of the BPC Regulations, withhold customs clearance for not more than two working days of shipments that are believed not to comply with the requirements of the PIC Regulation, pending further enquiries and/or examination by HSE or HSENI;
- be involved in any consultations necessary to enable HSE and HSENI to carry out their Designated National Authority role, including developing the legislative framework.

3. All activity covered by this Memorandum of Understanding will be commensurate with the risk, prioritisation and the level of resource available.

4. This Memorandum of Understanding will be reviewed no later than 3 years after the date of the last signature, but may be reviewed at any time and will terminate on the expiry of six months written notice of termination given by any party to it.

5. This Memorandum of Understanding supersedes the 2006 Service Level Agreement between HMRC, the Department for Environment, Food and Rural Affairs and HSE on the European Union's implementation of the Rotterdam and Stockholm Conventions.

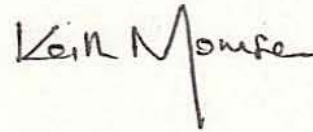
Signed on behalf of HSE by:



21 May 2015

Dave Bench, Director Chemicals Regulation

Signed on behalf of HSENI by:



28 May 2015

CHIEF EXECUTIVE

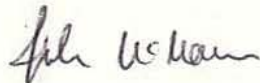
Signed on behalf of Border Force by:



18 Nov 2015

Head of National Ops.

Signed on behalf of HMRC by:



7 October 2015

Deputy Director, Customs Directorate

