

Brexit – Implications for Transportable Pressure Equipment

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Overview

Transportable Pressure Equipment Directive





Introduction



ADR

Transportable
Pressure
Equipment

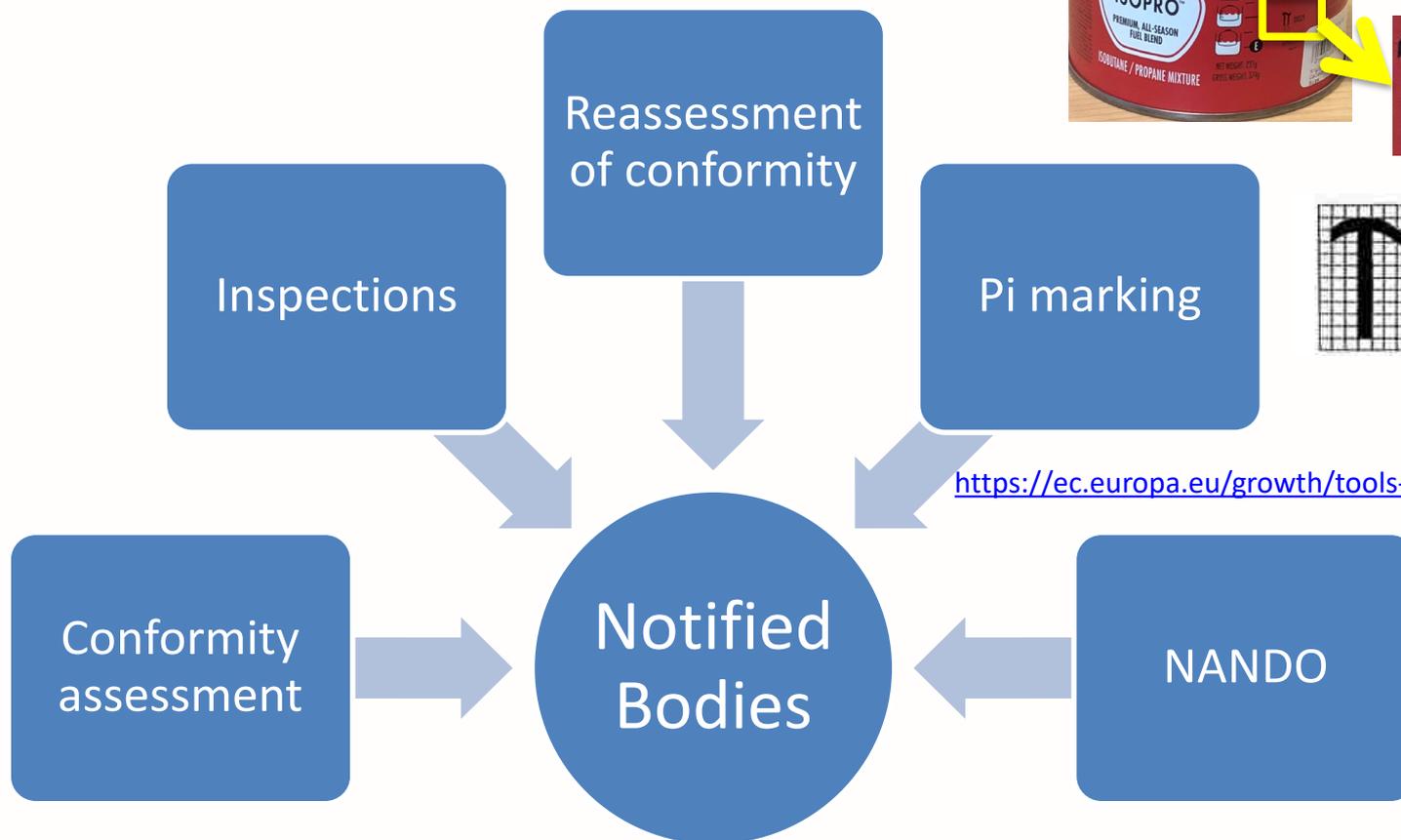
Directives

- *European Agreement Concerning the International Carriage of Dangerous Goods by Road*
- Ireland and the UK are Contracting Parties

- Pressure receptacles including gas cartridges (Chapter 6.2 of ADR)
- Tanks, battery vehicles/wagons, multiple-element gas containers (Chapter 6.8 of ADR)
- Class 2 gases

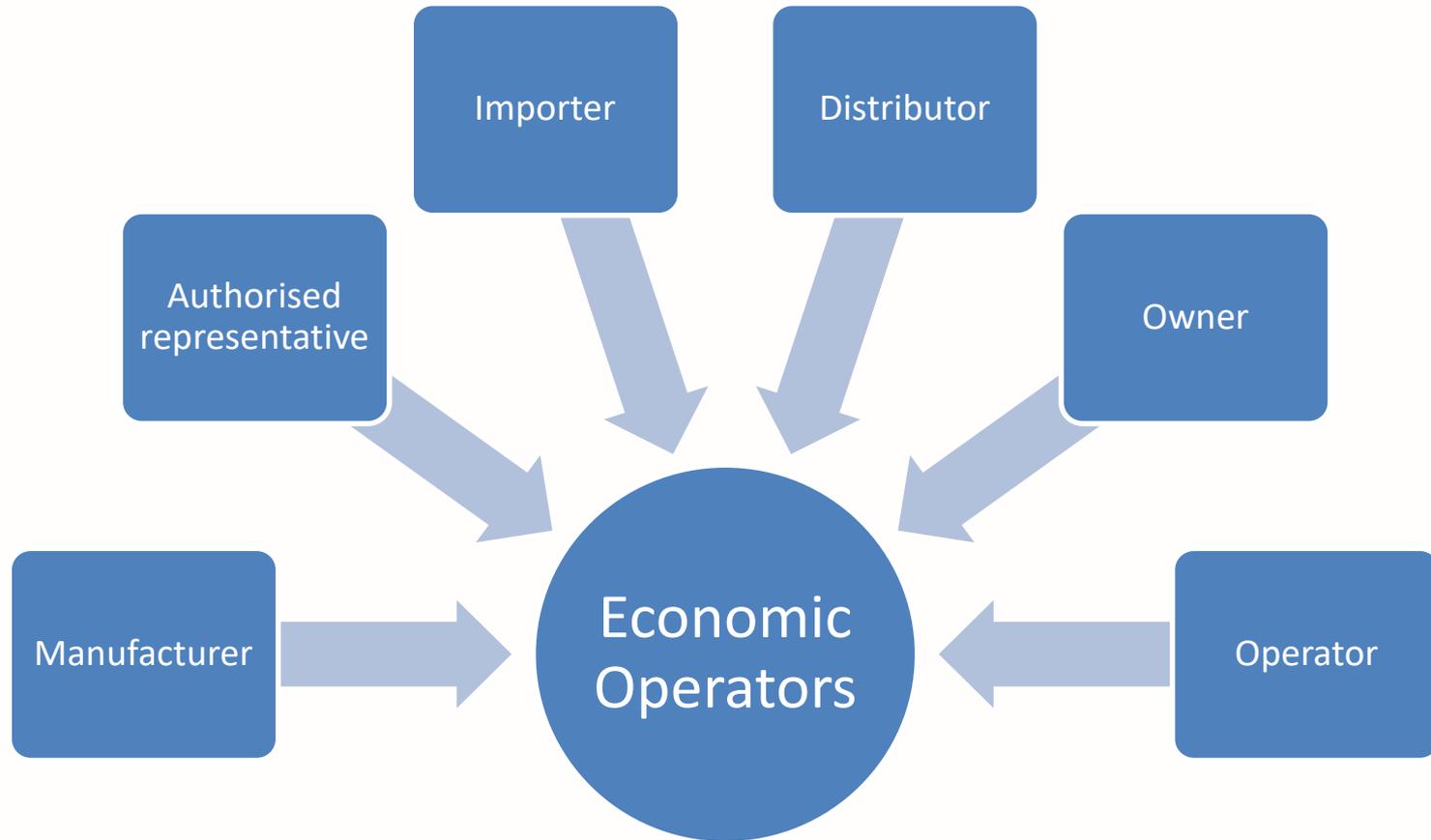
- Transportable pressure equipment directive (TPED) (2010/35/EU)
- Inland transport of dangerous goods (2008/68/EC)

Introduction



*TPED ensures free movement of TPE within the EU.
Certificates and reports issued by a notified body are valid in all Member States.*

Introduction



Notices published by the European Commission

Notices issued by the European Commission

Industrial Products

13 March 2020



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMEs
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT
DIRECTORATE-GENERAL FOR JUSTICE AND CONSUMERS
DIRECTORATE-GENERAL FOR ENVIRONMENT
DIRECTORATE-GENERAL FOR ENERGY

Brussels, 13 March 2020
REV2 – replaces the notice (REV1) dated 22 January 2018 and the Q&A document dated 1 February 2019

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF INDUSTRIAL PRODUCTS¹

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¹ See the annex for the detailed list of Union product legislation.

Replaces notice 22 Jan 2018 and Q&A document 1 Feb 2019



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Brussels, 5 June 2020
REV1 – replaces the notice dated 11 July 2019

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF TRANSPORTABLE PRESSURE EQUIPMENT

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”.¹ The Withdrawal Agreement² provides for a transition period ending on 31 December 2020.³ Until that date, EU law in its entirety applies to and in the United Kingdom.⁴

During the transition period, the EU and the United Kingdom will negotiate an agreement on a new partnership, providing notably for a free trade area. However, it is not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would not affect the relationship which in terms of market access conditions will be very different from the United Kingdom’s participation in the internal market⁵ and EU Customs Union and in the VAT and excise duty area.

Therefore, all interested parties, and especially economic operators, are reminded of the legal situation applicable after the end of the transition period (Part A of this notice also contains certain relevant provisions of the Withdrawal Agreement (Part B below), as well as the legal situation in Northern Ireland after the end of the transition period (Part C below)).

Annex to stakeholder notice

¹ A third country is a country not member of the EU.

² Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.1.2020, p. 7 (“Withdrawal Agreement”).

³ The transition period may, before 1 July 2020, be extended once for up to 1 or 2 years (Article 132(1) of the Withdrawal Agreement). The UK government has so far ruled out such an extension.

⁴ Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this notice.

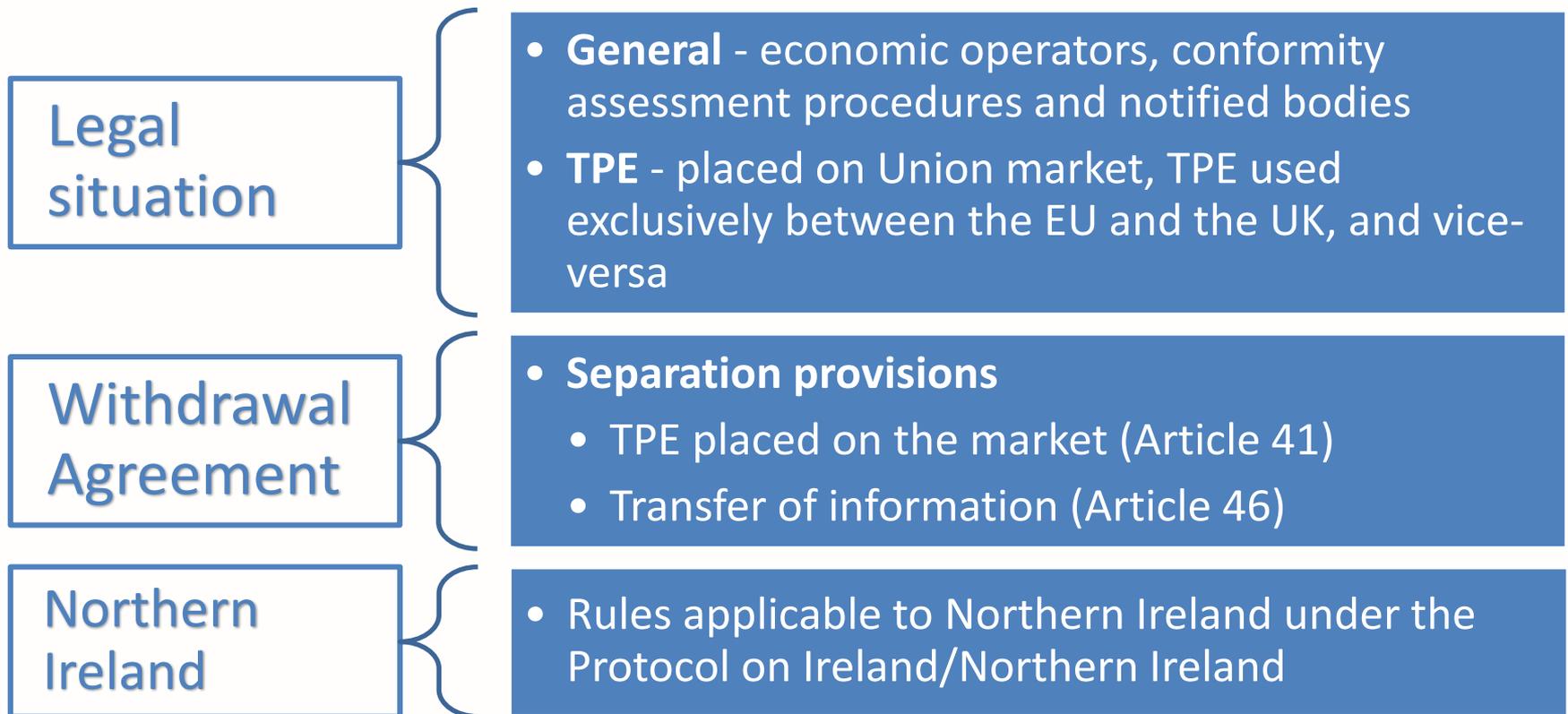
⁵ In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the “country of origin principle”, and harmonisation. Nor does a free trade agreement remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

Replaces notice 11 July 2019

https://www.hsa.ie/eng/topics/brexit/transportable_pressure_equipment/

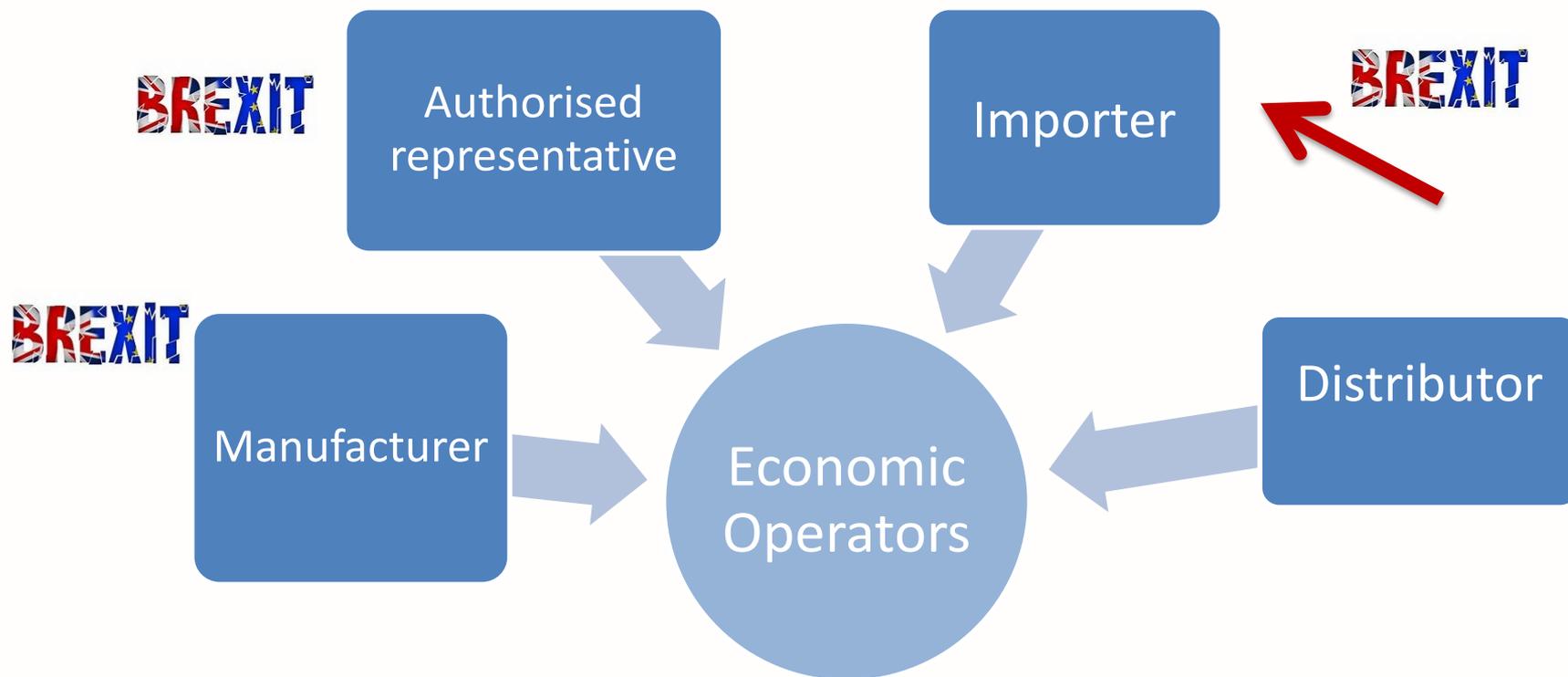
**What's going to happen
at the end of the
transition period?**

The end of the transition period.....



Legal situation

Identification of Economic Operators



Under TPED:

'placing on the market' – the first making available of TPE on the Union market

'making available on the market' – any supply of TPE for distribution or use on the Union market in the course of a commercial public service activity, whether in return for payment or free of charge

What does this mean for TPE?

Obligations of Economic Operators

Before **placing TPE** on the market, the importer needs to ensure:

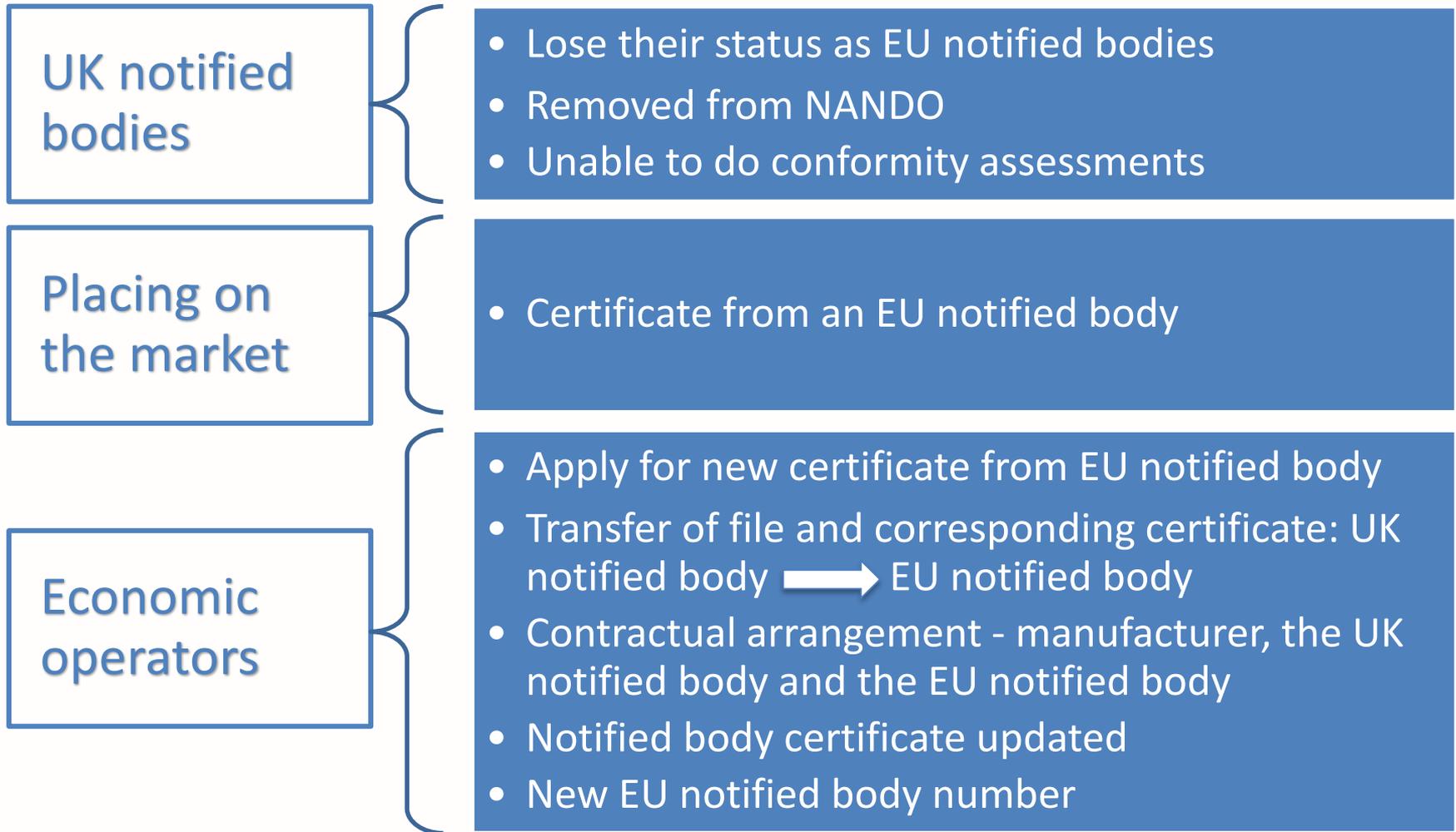
- Pi (π) marked
- Certificate of conformity - **name and address** of the importer
- **Manufacturer has done appropriate conformity assessment procedure and drawn up the technical documentation**
- **Keep a copy of the technical documentation**

Before **making TPE available** on the market, the distributor needs to verify:

- Pi (π) marked
- Certificate of conformity - **contact address** for the importer

Legal situation - general

Conformity assessment procedures and notified bodies



Legal situation - TPE

TPE placed on the Union market

- To ensure the continuity of the free movement of TPE, EU notified body will be required to perform:
 - Periodic inspections
 - Intermediate inspections
 - Exceptional checks

- EU notified body will also be required to carry out:
 - Reassessments of conformity

Legal situation - TPE

TPE used exclusively between the EU & the UK, & vice-versa

- **Article 1(4) of Directive 2010/35/EU (TPED):** *does not apply to TPE used exclusively for the transport of dangerous goods between Member States and third countries, carried out in accordance with Article 4 of Directive 2008/68/EC.*
- **Article 4 of Directive 2008/68/EC (inland transport of dangerous goods):** *the transport of dangerous goods between Member States and third countries shall be authorised in so far as it complies with the requirements of the ADR, RID and ADN, unless otherwise indicated in the Annexes.*

Thus, TPE which complies with the requirements of the ADR can normally continue to be accepted, after the transitional period, for the international carriage of dangerous goods between the UK and the EU and vice versa.

Separation provisions of the Withdrawal Agreement

Separation Provisions of the Withdrawal Agreement

TPE placed on the market (Article 41)

Example:

TPE sold by a UK-based manufacturer to a UK-based wholesaler (i.e. placed on the market) before the end of the transition period based on a certificate issued by a notified body established in the UK



can be distributed further and used in the EU after the end of transition period on the basis of that certificate.

Transfer of information related to conformity assessments (Article 46)

Information from a UK conformity assessment body - 46(1)



Information from an EU notified body - 46(2)

Rules in Northern Ireland

Protocol on Ireland/Northern Ireland

- Applies after the end of the transition period
- Subject to periodic consent of the NI Legislative Assembly
- Initial period of application is 4 years
- TPE Directive applies to and in the 'UK in respect of NI'
- TPE placed on the market in NI has to comply with TPE directive
- TPE manufactured in NI and shipped to the EU **is not an imported product**
- TPE shipped from GB to NI **is an imported product**
- Importer and authorised representative may be established in NI

Protocol on Ireland/Northern Ireland

Certificates (conformity assessment and reassessment of conformity)

Reports of inspections (periodic, intermediate and exceptional checks)

EU notified body

- Certificates & reports issued by an EU notified body **are valid** in NI
- TPE **can** be placed on the market & **used** in NI based on certificates & reports from an EU notified body

GB notified body

- Certificates & reports issued by a notified body in GB **are not valid** in NI
- TPE **cannot** be placed on the market & **used** in NI based on certificates & reports from a GB notified body

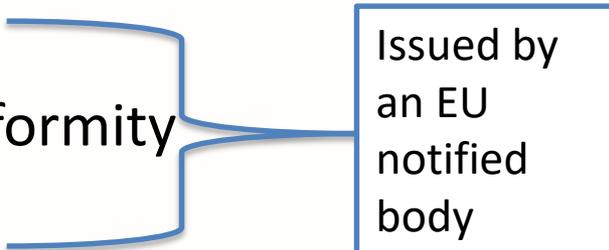
NI notified body

- Certificates & reports issued by a notified body in NI **are valid only** in NI & not in the EU
- UK(NI) beside pi (π) mark to show TPE can be placed on the market in NI but **not** in the EU

What does this mean?

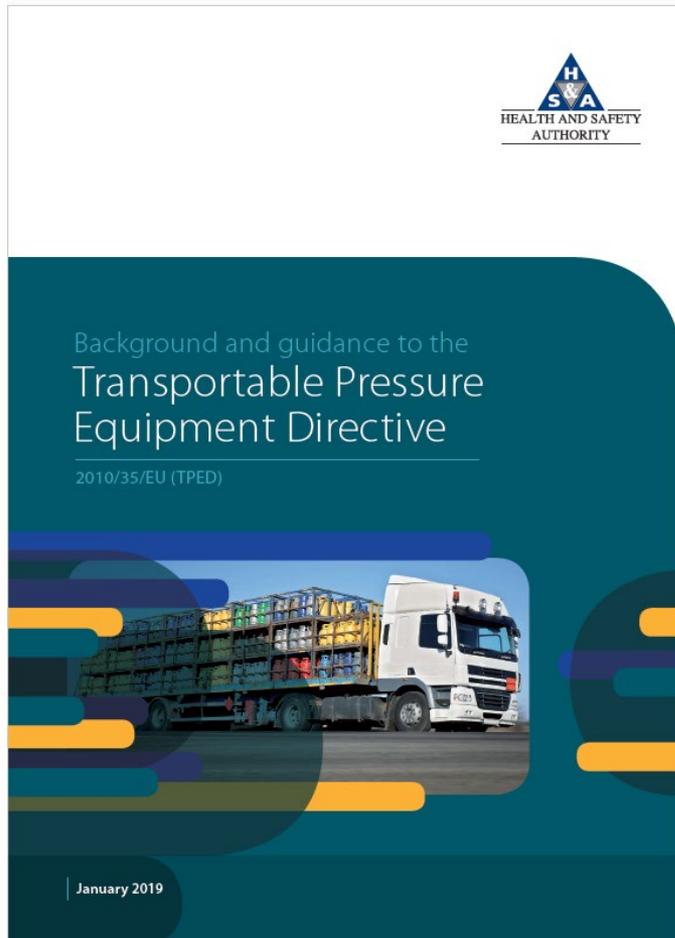
What is your role as an economic operator?

- Manufacturer of TPE:
 - Certificates of conformity issued by EU notified body
 - Comply with requirements for authorised representative
 - Adapt labelling as necessary
- Owner or operator of TPE:
 - Certificates of reassessments of conformity
 - Reports of inspections
- Distributor to importer – do you know your obligations?
- If you currently use a UK notified body, what are your plans?



Issued by
an EU
notified
body

Further Information



www.hsa.ie

TPED: ADR webpage

Brexit:

https://www.hsa.ie/eng/topics/brexit/transportable_pressure_equipment/

Webinar 15 October 2020:

Brexit – What you need to do if you source chemical products from the UK

https://www.hsa.ie/eng/news_events_media/events/hsa_webinars/

Thank you

