



# **How to deliver a UK-EU ‘re-set’ that works:**

## **The SPS Common Area**

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# What does a 're-set' mean? Agri-food regulation

UK: approx. 90%  
harmonization of regulation  
with EU (ONS, 2019)

Single market

Dynamic alignment  
No border checks for 'the  
vast majority' of  
animal/plant products

SPS Common Area

EU-UK TCA SPS Chapter

Third country  
No harmonization

# Deeper alignment = fewer border checks

Product	EU-Switzerland style veterinary agreement					EU-New Zealand style veterinary agreement					Other authorised third countries				
	Allowed	Certificate	Frequency of border checks (% according to EU legislation)			Allowed	Certificate	Frequency of border checks (% according to EU legislation)			Allowed	Certificate	Frequency of border checks (% according to EU legislation)		
			Documentary (100%)	Identity (100%)	Physical (15-30%)			Documentary (100%)	Identity (100%)	Physical (15-30%)			Documentary (100%)	Identity (100%)	Physical (15-30%)
Live animals	Yes	Intra-EU	Borderchecks abolished			Yes	Simplified	100%	100%	100%	Yes	Standard	100%	100%	100%
Red meat	Yes	Not required	Borderchecks abolished			Yes	Simplified	100%	100%	1-10%	Yes	Standard	100%	100%	15%
Fresh minced red meat	Yes	Not required	Borderchecks abolished			Banned									
Poultry meat	Yes	Not required	Borderchecks abolished			Yes	Simplified	100%	100%	1-10%	Yes	Standard	100%	100%	100%
Minced poultry meat	Yes	Not required	Borderchecks abolished			Banned									
Fisher products	Yes	Not required	Borderchecks abolished			Yes	Simplified	100%	100%	1-10%	Yes	Standard	100%	100%	15%
Live bivalve molluscs fit for human consumption	Yes	Not required	Borderchecks abolished			Yes	Simplified	100%	100%	1-10%	Yes	Standard	100%	100%	30%
Live bivalve molluscs for purification	Yes	Not required	Borderchecks abolished			Banned									
Dairy products	Yes	Not required	Borderchecks abolished			Yes	Simplified	100%	100%	1-10%	Yes	Standard	100%	100%	30%
Composite products	Yes	Not required	Borderchecks abolished			Yes	Standard	100%	100%	15%	Yes	Standard	100%	100%	15%
Personal imports	Yes	Not required	Borderchecks abolished			Banned									
Pets non-commercial	Yes	Pet Passport	Borderchecks abolished			Yes	Standard	100%	100%	N/A	Yes	Standard	100%	100%	N/A

***EU import requirements for animal products, comparison between countries***

*European Commission (2021)*



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INCLUSIVE  
TRADE POLICY

- Re-alignment of laws (moderate divergence)
- Re-alignment of processes (more significant):

Post-Brexit food law is:

**More executive-led**, more informal, more fragmented between UK nations

Lydgate, E and Anthony, C (2022), *Brexit, food law and the UK's search for a post-EU identity*, 85(5) MLR 1168-1190.

# UK divergence of laws post-Brexit

Legislative area	Effect	Vis-à-vis EU	Legislation
<b>Gene editing (England)</b>	Permits the use of precision breeding for animals; the EU regime covers only plants.	Weaker	Primary
<b>Pesticides – maximum residue levels (GB)</b>	Increase of permitted Maximum Residue Levels for pesticides, increase in permitted active substances	Weaker	Secondary
<b>Changes to marketing criteria for wine (England)</b>	Amendment of marketing requirements for wine, including allowing Protected Designation of Origin (PDO) criteria for wine from hybrid grapes.	Weaker	Consultation
<b>Transport of live animals (GB)</b>	Prohibition on export of live animals through or from UK for slaughter.	Stricter	Primary
<b>Ban on new licenses for animal testing in cosmetics (GB+NI)</b>	Reintroduces a complete ban on the testing of cosmetics or their ingredients on animals	Stricter for animal welfare	Secondary

# EU divergence of laws post-Brexit

EU legislative area	Effect	Vis-à-vis UK
<b>Packaging and Packaging Waste</b>	Requirements on recycled content; diverging labelling requirements	Stricter
<b>Single Use Plastic</b>	Ban on single use plastic items	Stricter
<b>Food additives</b>	Ban on titanium dioxide (E171)	Stricter
<b>Pesticides - neonicotinoids</b>	Reduction of import tolerances on clothianidin and thiamethoxam to the lowest traceable levels (effective ban on import).	Stricter
<b>Arsenic</b>	Reduction of permitted maximum levels of arsenic in foods such as baby food and infant formula by 80% and limited in other foods eg rice, juice and salt.	Stricter
<b>Geographical Indications</b>	Labelling requirements including for producer name to be included in the same field of vision as the GI name on any packaging.	Stricter

# Legislative and process re-alignment: a UK-EU SPS Common Area

## Treaty dimension:

- Sectoral coverage – Indicative list, some ambiguity
- Exceptions – ?
- Legislative formation – UK will ‘contribute appropriately’ (TCA joint committee role likely)
- Access to agencies/systems/databases (EFSA, RASFF, TRACES etc) – ‘appropriate’
- Dispute settlement – TCA structures

# Legislative/process re-alignment: a UK-EU SPS Common Area

## Internal dimension:

Negotiation, ratification of treaty and implementing legislation, dynamic alignment

- Role of devolved nations?
- Role of Parliament, including Select Committees?
- Role of stakeholders?
- Role of broader public (ie referenda)?



# Dynamic alignment – existing models

## EU-Switzerland Common Food Safety Area (2024):

Art. 14: Fulfillment of constitutional obligations by Switzerland

- Provisional application of new regulation (Switzerland informs the Union if this is not possible)
- 2 years to complete constitutional processes, 3 years for referendum
- (Art 15) no provisional application: EU acts to ensure integrity of its Food Safety Area
- Consultation/arbitration/potential compensatory measures

# Dynamic alignment – existing models

## Windsor Framework/Northern Ireland Protocol:

Dynamic alignment between Northern Ireland and the EU – Art 13(4) NIP

- Joint Committee decides whether to add new laws to the Protocol or explore alternative approaches to maintain its functioning.
- UK side: decision is executive-led ('Westminster Brake' – Melo Araujo)
- Failure to align: consultation/arbitration/potential compensatory measures

# Dynamic alignment – unilateral model

## Product Standards and Metrology Act (2025)

- Secretary of State can make regulations that correspond, or are similar to, EU laws on reducing environmental impacts of products
- Scope or criteria for alignment not specified precisely
- No explicit role for devolved administrations
- No Parliamentary oversight beyond delegated legislation

# Concluding points

- A re-set is not just about aligning regulation, but also addressing the basis upon which it is made
- Dynamic alignment should include:
- *A role for Parliament in ongoing monitoring and scrutiny.*
- *Stakeholder consultation regarding whether to align with new EU regulation.*
- *Agreement from devolved nations on dynamic alignment decisions.*



**Thank you**

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