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

The SPS Common Area

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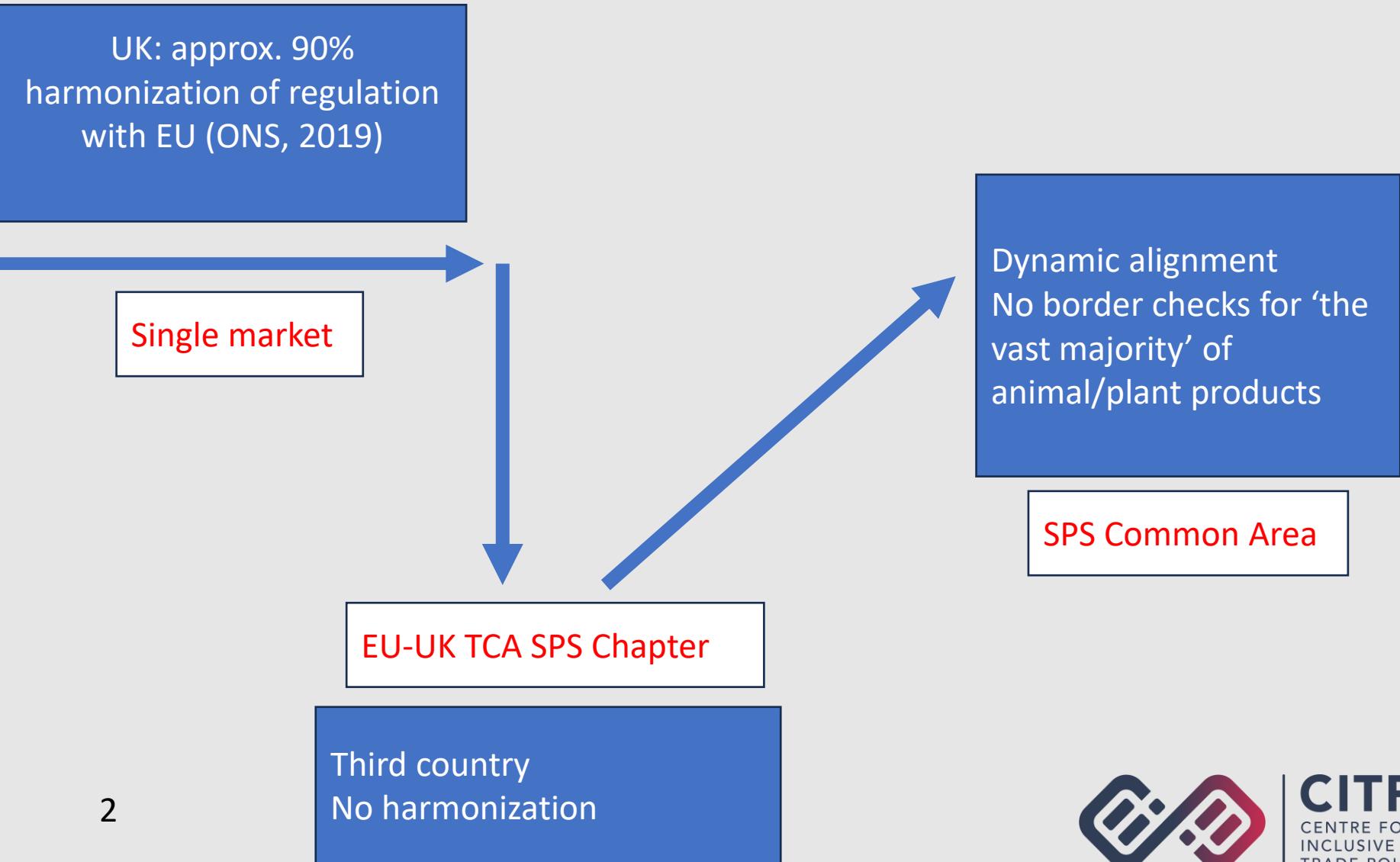
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What does a ‘re-set’ mean? Agri-food regulation



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

3 EU import requirements for animal products, comparison between countries

European Commission (2021)



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- 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
Gene editing (England)	Permits the use of precision breeding for animals; the EU regime covers only plants.	Weaker	Primary
Pesticides – maximum residue levels (GB)	Increase of permitted Maximum Residue Levels for pesticides, increase in permitted active substances	Weaker	Secondary
Changes to marketing criteria for wine (England)	Amendment of marketing requirements for wine, including allowing Protected Designation of Origin (PDO) criteria for wine from hybrid grapes.	Weaker	Consultation
Transport of live animals (GB)	Prohibition on export of live animals through or from UK for slaughter.	Stricter	Primary
Ban on new licenses for animal testing in cosmetics (GB+NI)	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
Packaging and Packaging Waste	Requirements on recycled content; diverging labelling requirements	Stricter
Single Use Plastic	Ban on single use plastic items	Stricter
Food additives	Ban on titanium dioxide (E171)	Stricter
Pesticides - neonicotinoids	Reduction of import tolerances on clothiandin and thiamethoxam to the lowest traceable levels (effective ban on import).	Stricter
Arsenic	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
Geographical Indications	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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