

What next for UK-EU trade? Your guide to the non-tariff barriers still to come

Great Britain's transition under the Trade & Cooperation Agreement (TCA) to Third Country status vis-à-vis the EU's Single Market is already affecting goods exporters significantly. For the 9 months to September, goods exports from the UK to the EU were down 12% compared to the same period in both 2018 and 2019. Goods exports from the UK to non-EU countries were also down, 8% compared to the same 9 months in 2018 and 12% compared to the same 9 months in 2019. This has occurred at the same time as other rich countries have surpassed pre-pandemic levels of trade.

However, the full impact is still yet to be felt. In this briefing, we introduce some of the new non-tariff barriers (NTBs) to trade coming in the next two years as the UK continues to transition to a separate regulatory and customs territory. Some are gradual, while Rules of Origin requirements and the introduction of import controls for Great Britain bring a "big bang" change next year

We will explore these changes in the next pages. They can be summarised as follows:

- **Regulatory divergence:** Although the UK transferred EU product standards into UK law on 1st January 2021, EU standards have continued to change independent of Great Britain's, while the government also has signalled its intention to eliminate much of the law that was "retained" in January 2021. As standards evolve further apart, manufacturers may need to produce different products for the UK and EU, increasing costs as they lose economies of scale from single production processes.
- **Safety marking:** Indeed, the UK is creating a separate product standard (UK Conformity Assessed, or UKCA) to replace the Conformité Européenne (CE) safety mark. The UKCA will now be required from January 2023. If the different sets of requirements cannot be reconciled, then manufacturers will need to make different products for each market.
- **As the balance of new products to old increases over time,** costs will gradually increase as fewer products will be able to use existing CE certifications.
- **Rules of Origin:** To qualify as tariff free when exported from the UK to the EU products must demonstrate that a specific minimum proportion of their value is locally produced. To date this has required a declaration by the exporter. From 1st January 2022, the EU will require documented evidence to support the declaration.
- **The UK has yet to introduce controls on imports from the EU into Great Britain.** These changes happen from 1st January (customs import declarations and pre notification of some food products) and from 1st July (physical checks on animal and plant imports, safety, and security declarations).

Reduction / elimination of EU retained law

A huge body of EU legislation and directives was incorporated into UK law “en bloc”, with effect from 1st January via the EU (Withdrawal) Act of 2018 to provide legal continuity. Lord Frost has announced intention of conducting a review of “retained EU law”, with a view to replacing it with new UK law. As we end the legal force of the original EU rules and regulations within that Act, manufacturers will need to observe the new UK Legal requirements, which may differ from current EU regulations.

At first, this creates few new costs. While it is true that the Single Market created a single regulatory zone – in which regulatory borders were removed because the regulations everywhere inside were the same – the UK already exited this on 1st January when it left the Single Market. It achieved no accommodation for the fact that all its goods regulations at that point were Single Market regulations. Part of the reason why goods trade is already down is that UK goods are subject (based on risk) to being stopped and checked at the border as if the UK's regulations had already diverged: other countries with regulatory alignment, such as Norway, enjoy frictionless goods trade with the EU, but Great Britain already does not. This is because the government – wishing to maintain regulatory autonomy – gave no guarantees on the future direction of goods regulations in Great Britain (Northern Ireland, in accordance with the Northern Ireland Protocol, still follows Single Market regulations on goods).

Over time, however, manufacturers will have a choice between either observing both sets of law, or ignoring Great Britain's new regulatory regime, or using EU relocation to avoid the manufacturing complexity involved. In the first scenario, they will now have to split production in two, losing economies of scale. The second is possible only if GB requirements are a subset of EU requirements and less onerous than the EU's. Manufacturers may retain one production line to save costs, knowing that meeting EU requirements meets GB requirements. This, however, precludes them from benefiting from any lower costs that the deregulation might have brought for the GB market. Plus, it is not possible if Great Britain has some requirements that the EU does not have and vice versa. In that case, the third scenario – relocating EU production to the continent – becomes more favourable.

Postponed: Introduction of UK Conformity Assessment

It was intended that from 1st January 2022 , the Conformité Européenne (CE) product safety marking used throughout the Single Market would be replaced by the UK Conformity Assessed (UKCA) standard for goods sold in Great Britain. The introduction of UKCA has now been postponed 1st January 2023.

When exporting to the EU, GB producers will still have to comply with the relevant EU certifications, be they CE or another standard (generally the higher the risk the product, the more specific the standard). Since 1st January 2021, to gain approval (to be able to apply the letters 'CE') for products to be sold in EU, UK-made products must be sent to EU standards agencies: there is no “mutual certification” in the TCA. Typically, an example product is sent to a testing house, or certifiers visit a factory. If a product had already earned its certification, then 1st January brought no changes. However, over time as new products are introduced, more costs will emerge.

Over time: Costs are added as new products replace existing ones

Indeed, as the balance between new and existing products starts to be weighted towards the new, exporters will face steadily more costs from certification.

January 2022: Country of Origin rules

Although the UK and EU trade tariff-free under the TCA, a proportion of the value must have been added in the UK for a GB exporter to qualify for this tariff-free export to the EU.

Until now, relatively simple, unsupported, Rules of Origin declarations by UK exporters have been permitted. However, from 1st January, exporters must hold supplier declarations and if necessary documentary evidence to underpin their own declaration.

If EU customs authorities judge that documentation is lacking or deficient, then the EU importer will be liable to pay the full duty Tariff with a reclaim mechanism. To determine the exact requirements, the government website recommends checking the full text of the TCA.

Throughout 2022: UK import checks to be introduced

GB exporters have faced regulatory and customs controls since January when exporting to the EU. GB businesses sending goods to Northern Ireland have also faced some controls at times when the Northern Ireland Protocol has been fully implemented.

Now, for the first time, EU exporters will also face these barriers when sending goods to GB.

Throughout 2022: EU Supply Security policy – encouraging EU-based investment

EU Supply Security Policy

Like other major economies, the EU is now pursuing steps to reduce its reliance on far off countries with different values, for the supply of key materials or products:

- items identified by the EU include lithium batteries for electric vehicles, pharmaceutical products, rare earth materials, and edge and cloud conducting. Telecommunications i.e.5G, has already featured actively in this process.
- this process of bringing production into, or close to the EU is often referred as re-shoring, near-shoring or friend-shoring (i.e. supply comes from friendly, stable countries with common values). The Suez closure episode further underpins this thinking.

It remains to be seen by UK and Global manufacturers which trade tools the EU will use – EU Aid is already proposed - to ensure production is placed within the EU, but the policy seems likely to channel investment flows to the EU.

The January 2022 Deloitte Survey of Chief Financial Officers highlights that “near-shoring of supply chains” is already a major driver of investment planning by large corporates.

[Deloitte UK CFO Survey - Record number of CFOs prioritising investment | Deloitte UK](#)

Timeline of introduction of GB import checks

Animal By-Products	Pre-notification of products of animal origin, low-risk animal by-products not for human consumption, and high-risk food not of animal origin.	1 Jan 2022
Import Declarations	Customs import declarations required for non-controlled goods from the EU, and the option to use the deferred declarations scheme, including submitting supplementary declarations up to 175 days from the time of import, ends.	1 Jan 2022
Pre-notifications	Pre-notification for low-risk plants and plant products required.	July 2022
Safety Declarations	Safety and security declarations for	July 2022
Animal and High Risk non-animal products	Documentary checks and physical checks on animal products, high-risk food not of animal origin and high-risk plants introduced and will take place at Border Control Posts	July 2022
Border Checks	Checks at Border Control Posts will take place on live animals and low-risk plants	July 2022