

UK IN A  
CHANGING  
EUROPE

# BRIEFING



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UK-EU DIVERGENCE TRACKER

Q3 2023

- UK in a Changing Europe's Divergence Tracker is a quarterly report assessing where and how UK and EU regulations have diverged since Brexit. This edition covers Q3 2023 and finds, in what is now a recurring theme under Prime Minister Rishi Sunak, very few cases of the UK making use of its regulatory freedom to diverge from EU rules.
- Two landmark cases of upcoming divergence have been delayed or cancelled altogether. New border controls on EU imports have been delayed – for the fifth time – until January 2024, while the requirement that manufactured goods bear a 'UKCA' mark (rather than an EU 'CE' mark) from 2025 has been scrapped.
- The decisions, taken in consultation with businesses who warned of a lack of preparedness, highlight how divergence impedes government's core aims of controlling inflation and boosting growth. The new import controls risked augmenting inflation and causing goods shortages in the run-up to Christmas, while enforcing the UKCA mark risked major gaps in sectoral supply chains.
- There are also five notable cases of the UK actively aligning with EU rules and/or systems: another more prevalent trend under Sunak. The UK will associate to the EU's Horizon and Copernicus programmes; will replicate a provision of EU case law, known as 'single source', on equal pay; has aligned with the EU's phase-out date for sale of new petrol and diesel cars; has followed the EU in approving Microsoft's acquisition of Activision; and has set out a plan to 'recouple' its electricity trading with the EU.
- Moreover, there are several new EU measures (reforms to its food marketing rules, updated rules on vehicle emissions, and designation of big tech firms as 'gatekeepers') where the UK government has either stated or implied that it could actively align with EU standards. This implies a growing acceptance, in many sectors, of the 'Brussels effect' where EU regulatory changes set international norms which the UK has little choice but to follow.
- There has, however, been some notable divergence on climate and environmental standards. The UK is phasing out allowances under its emissions trading scheme at a slower rate than in the EU, contributing to the UK's 'carbon price' falling to under half of the EU's. This means comparatively less stringent UK emissions regulation, and the EU may have concerns that it distorts the level playing field conditions of the TCA (due to UK business paying a lower price for carbon emissions).
- The UK government also sought to remove EU-derived rules preventing wastewater release in protected environmental areas (known as 'nutrient neutrality') and obliging it to produce a 'National Air Pollution Control Plan' on how to meet its legal obligations to reduce levels of five pollutants. The Office for Environmental Protection has sternly criticised both decisions, stating that each amounts to a weakening of environmental protections. The removal of nutrient neutrality rules was blocked by the House of Lords.
- There have also been significantly fewer new restrictions on chemicals and pesticides in GB than the EU since Brexit, largely due to a lack of regulatory capacity on the British side. Meanwhile the EU, cognisant of the major building renovation work required to meet its net zero targets, is set to introduce stricter controls on worker exposure to asbestos (ten times lower than the UK's).
- A number of EU rule changes could also create divergence between Northern Ireland and Great Britain, because NI must follow EU rules under the Protocol. These include restrictions on pesticides, chemicals and microplastics, new standards on vehicle emissions, and on the manufacture and labelling of jams. Unless GB manufacturers adhere to the new EU standards, their exports (for instance of cars) may not be exportable to Northern Ireland.