

BREXIT: WHAT NEXT?

Steve Schofield, BPMA Director and Chief Executive, shares his thoughts on what the time remaining in the UK's transition period from the EU might mean for the future of our regulatory landscape and the trade of goods and services between the UK and the EU.



The UK finally left the EU with a deal on January 31, and under that deal we have now entered into a transition period that will last until December 31, 2020. During this period, EU law continues to apply in the UK. The end of year deadline will not be extended, and from January 1, 2021, the UK will regain regulatory control over those areas previously regulated by the EU.

The Government's Brexit deal still leaves a considerable number of unanswered questions on the detail of the UK's preferred future relationship with the EU. While we know it will be based on a free trade agreement (FTA) approach, this could still mean many different things.

There has been a lot of work done within various Government departments, but much of this was done under Theresa May's Government and often without any central co-ordination or direction. This means much of it may not have much bearing on reality in the end, or may conflict with the work other parts of the Government have already done. So there urgently needs to be central political direction and decisions on the detail of the future relationship and the overarching strategy for the next phase – this should all then be turned into legal text as soon as possible.

So far, the focus has been on the FTA itself, particularly from the media. But the future relationship goes far beyond that, including important issues such as internal and external security co-operation; data protection and sharing; aviation; road haulage; energy; science and innovation; and manufacturing.

In recent weeks the Prime Minister, Rt Hon Boris Johnson, and the previous Chancellor of the Exchequer, Sajid Javid, both made statements on the news and in the press that regulatory alignment would be off the discussion table.

SO WHAT DOES ALL THIS MEAN?

In the context of Brexit, regulatory alignment refers to the degree to which future UK and EU rules governing the trade in goods and services will be the same or similar. But there is disagreement about precisely what the term means, as there are different degrees of alignment.

Previously when a piece of law (directive/regulation) was passed in Brussels, it would subsequently need to be passed by the UK Government, and Statutory

Instruments (SIs) created. SIs are a form of legislation which allow the provisions of an Act of Parliament to be subsequently brought into force or altered without Parliament having to pass a new Act.

In layman's terms, it is taking EU law and making it into UK law. During this process, the UK could strengthen the requirements of the law but not reduce them. Over the time that the UK has been a member of the EU, there have been thousands of pieces of legislation covering all topics, sectors and aspects of life, and living and working in Europe.

For the UK Government to say they will not be aligned to any of these rules is a very bold statement. It is believed that the UK Government will initially pick and choose which are appropriate for now, before it begins the task of rewriting or amending any existing laws. Our current understanding is legislation such as the Machinery, ATEX and Low Voltage Directives will be maintained while existing energy and environmental legislation will be reviewed, and possibly revised, and future legislation will be assessed and possibly ignored.

If the UK Government drops regulatory alignment, it could affect our relationship with CEN and CENELEC. To

explain further CEN and CENELEC are used to write mechanical and electrical standards that can be aligned to legislation and offer conformity. Questions are now being asked within these organisations on the legality of BSI remaining a member, and it is believed that this will be reviewed at the end of 2021.

So the jury is still out on many subjects with decisions relying on how the future relationship with the EU evolves, and I am sure there will be many further surprises in the coming months. ➔

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