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PDA Parenteral Drug Association Ireland Chapter

BREXIT

Impact, Challenges & Solutions for the Pharmaceutical Industry

BREXIT Agenda

Time	Description	Presenter
9:00 - 9:15	Opening Remarks and Safety Moment	Moderated by Siegfried Schmitt (Parexel)
	Welcome from PDA Ireland President	Aidan Harrington, Principal Consultant, DPS Engineering
9:15 - 9:45	Brexit implications for QP & batch release	Ann Mc Gee, MIAS Pharma
9:45 - 10:15	Regulatory Challenges and Solutions	Graham Donaldson, Director, Regulatory Affairs at PharmaLex
10:15 - 10:45	Northern Ireland Protocol and the challenges for the industry	Charley Maxwell, Managing Director, Orion Consulting
10:45 - 11.15	Coffee Break and Networking	
11:15 - 11:45	Ireland/ industry perspective	Pat Ivory, IBEC, Director EU and international affairs
11:45 - 12:15	Regulators' perspective	David Cockburn, former Head of Manufacturing and Quality Compliance at EMA
12:15 - 12:45	Panel discussion (questions from audience and prepared questions)	Moderated by Siegfried Schmitt (Parexel)
12:45 - 13:45	Lunch	
13:45 - 14:15	Life Sciences Industry perspective	Mark Jackson, Managing Director: Merck Life Science UK Ltd
14:15 - 14:45	Trade & Customs Implications	Trevor Dempsey, Director, BDO Customs & International Trade Services
14:45 - 15:00	Q&A session	
15:00 - 15:10	Coffee break	
15:10 - 15:40	Legal perspectives	Bridget Clinton, Associate, Arthur Cox LLP
15:40 - 16:10	Pharma Industry's perspective	Lynne Thomson, Quality Director, Clinical Supply Services, Catalent Pharma Solutions
16:10 - 16:25	Q&A session	
16:25 - 16:30	Close by Moderator	Moderated by Siegfried Schmitt (Parexel)
16:30 - 16:40	Closing Comments by PDA Ireland President	Aidan Harrington, Principal Consultant, DPS Engineering

Welcome from PDA Ireland President

Aidan is a Principal Consultant with DPS Group based in Cork, who has worked in the Biopharmaceutical Industry since 1992. He is a graduate of University College Cork with a BSc in Microbiology, a PhD in Molecular Biology and is a Qualified Lead Auditor.

Since Nov 2019, Aidan has worked primarily with Takeda at their Cell Therapy facility where is the Program lead with responsibility for operational readiness for new cell therapy product introductions.

BREXIT Implications for QP and Batch Release

Presenter: Ann Mcgee – CEO, MIAS Pharma

Since qualifying as a pharmacist and obtaining a research MSc from Trinity College, Dublin in the mid-1980s, Ann has worked in the pharmaceutical sector. After approx 10 years in various technical roles in industry, Ann moved to roles as a Regulator; as a Senior Inspector with the HPRA (c. 6yrs) and CEO of the PSI (c. 6 yrs). In 2004 she set up her first business, McGee Pharma Int., a consultancy company offering advice and guidance to the sector internationally. In 2017, Ann merged that business with PharmaLex and over the next 4 years, transitioned the business to new leadership in Ireland and acted as Global Head, Quality & Compliance for PharmaLex. In 2017, Ann set up MIAS Pharma, a company authorised by the HPRA as a batch certification site for IMPs and commercial products. While building the international footprint of this business, Ann stays close to her technical roots and continues to deliver a technical role in the company.

Brexit

Implications for QP & Batch Disposition

Ann McGee
CIO, MIAS Pharma

PDA Ireland & UK

23 September 2022

ABOUT US

Our Mission

"To accelerate the availability of medicines to patients within the EU"

Core Service = Batch Certification

MIAS is licensed by the HPRA in Ireland as a “batch certification only” site for IMPs & commercial products for human use:

- MIA for Investigational Medicinal Products (IMPs)
- MIA for Commercial Products

Includes Site of Importation for IMPs & commercial products

- Using externally contracted, licensed parties in selected EU/EEA Member States

MIA – Manufacturer’s & Importer’s Authorisation

MIAS can work with existing suppliers or provide an end to end solution

Customer Profile

- Small to medium sized Pharma & Biopharma companies primarily outside EUR
- Companies without a presence in EUR
  - Infrastructure
  - Appropriate licences
- Limited understanding of complexity of EUR regulatory environment
  - Central & local regulatory requirements

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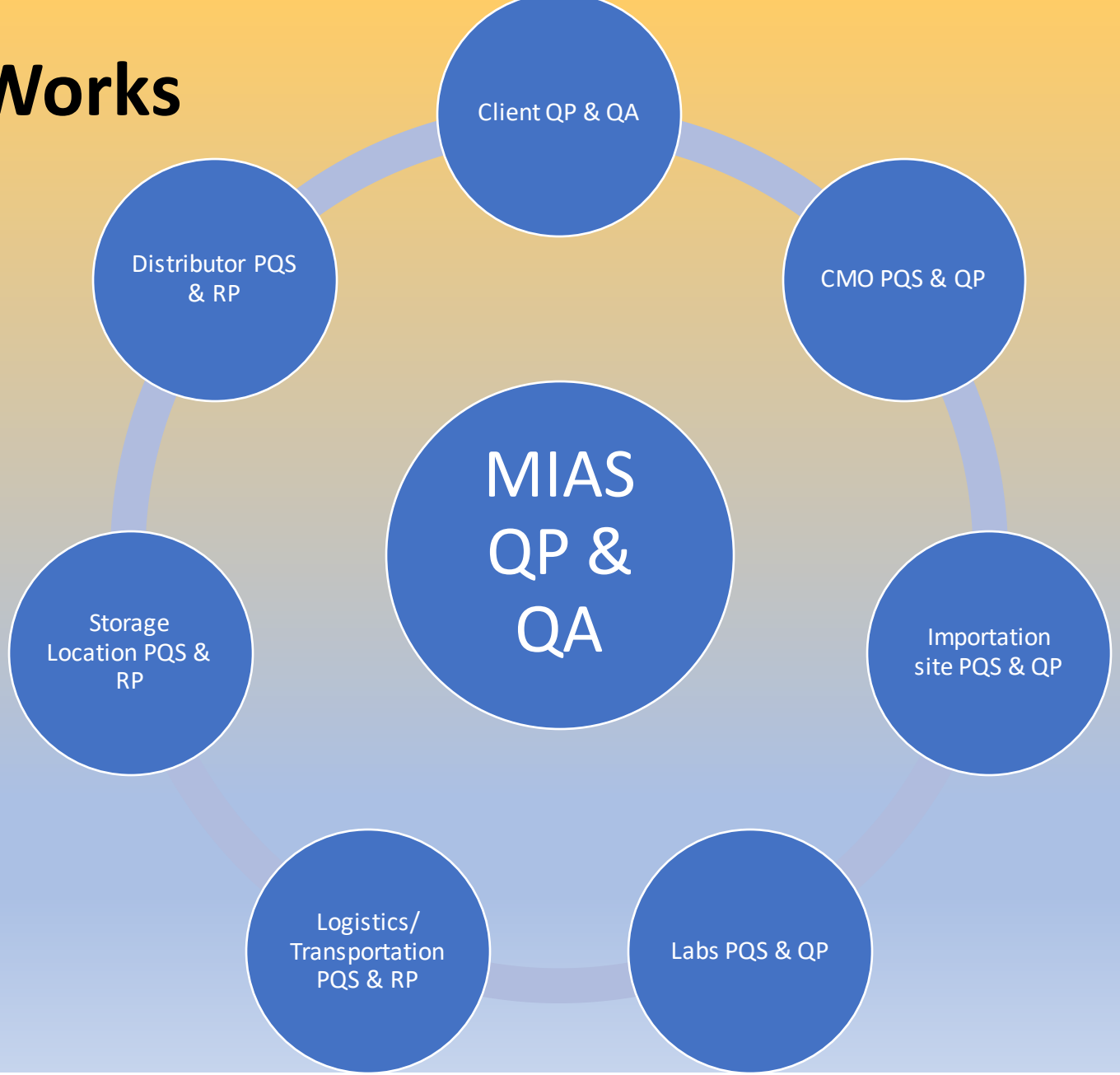
How it Works



- Commercial Contracts
- Audits
- QTAs
- MIA Updates
- Quality Oversight

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Impacts of Brexit

- IMPs
- Commercial Products

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Impacts of Brexit

Restructuring of Companies

- Historically - UK Parent Company with EU/EEA Affiliates
- New requirement - Legal entity in EU/EEA required to hold MAs
- Transfers of MAs to EU/EEA legal entities taking responsibility for EUR business
- Implications for scope & extent of PQSs
- Implications for the location of batch disposition - must be carried out in the EU/EEA
- Additional arrangements required for product release into UK (e.g. RPi)

Product Import & Export Controls

- UK became a 3rd country – movement of products became importation & exportation UK to EUR & EUR to UK
- MIA required to import into EU/EEA from UK
- Customs arrangements – Importer of Record required for importation into EU/EEA
- Annex 21 (Aug 2022) – additional pressures for compliance

Impacts of Brexit

Restructuring of Supply Chains

- 3rd parties were located in UK & in EU/EEA - CMOs, Packaging, Labs
- Product movement back into EU/EEA is (re)importation
- No MRA in place – analytical testing on (re)importation into EU/EEA
- Selection & qualification of labs located in EU/EEA
- Impacts for qualification of SC changes – audits, QTAs, licence updates

Supply Chain Disruptions

- Pressure on transportation networks & on customs clearance – delays in product availability
- Impacts for batch disposition timelines
- Increased risk of product shortages
- Impacts for IMPs with short shelf lives (e.g. radiopharmaceuticals)
- Changes in product demand & additional SC disruptions relating to war in Ukraine
- Additional pressure if UK requires retesting of products entering UK from Jan 2023.

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Batch Certification & the QP

SC Restructuring	Different ways of working More outsourcing to 3rd parties in the SC
Licensing & Qualification of new 3rd parties	QP awareness of change to SCs Assurance of appropriate licensing across the SC of each product
Increased Fragmentation of SCs	More multi-party collaborations - QTAs More dependence on QP-QP Agreements across 3rd parties Additional challenges to quality oversight of SCs – increased level of risk to product quality & regulatory compliance
Batch Certification	Delays in transportation & customs clearance putting pressure on product availability – pressure on TAT for batch certification More fragmented SC – how to establish & maintain working relationships to give required level of comfort for batch release & post-market compliance

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Case Study 1

- Large UK CMO for IMPs
- EU/EEA Affiliates not in a position to adapt their operations to respond to the challenges of Brexit
- Contracted MIAS Pharma as their batch certification site in EU/EEA
- MIAS Pharma qualified all the SCs & varied our MIA(IMP) as required
- Initially their QPs came to Ire every week to disposition batches
- Now, have transitioned over to a MIAS Pharma team of QPs.
- Challenges
  - Requirement for a Site of Importation & an MIA for importation of IMPs
  - IoR – not all SoIs offer an IoR service

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Case Study 2

- Generic company located in UK
- Large commercial product portfolio & CMOs globally
- Products are imported into EU/EEA
- MIAS Pharma QPs certify batches within the EU/EEA for export to UK
- RPi structure in place in UK that recognises the EU/EEA certification for release into UK
- Challenges:
  - Products were registered in EUR under the DCP process
  - MHRA could not issue a PL for each product within the Brexit timeline; continued to recognise the DCP MAs
  - However, QPs are not releasing for the EU/EEA & have to release for export (UK as a 3rd country)
  - RPi's in UK release for the UK on the basis of the release carried out in the EU/EEA (not for the EU/EEA).

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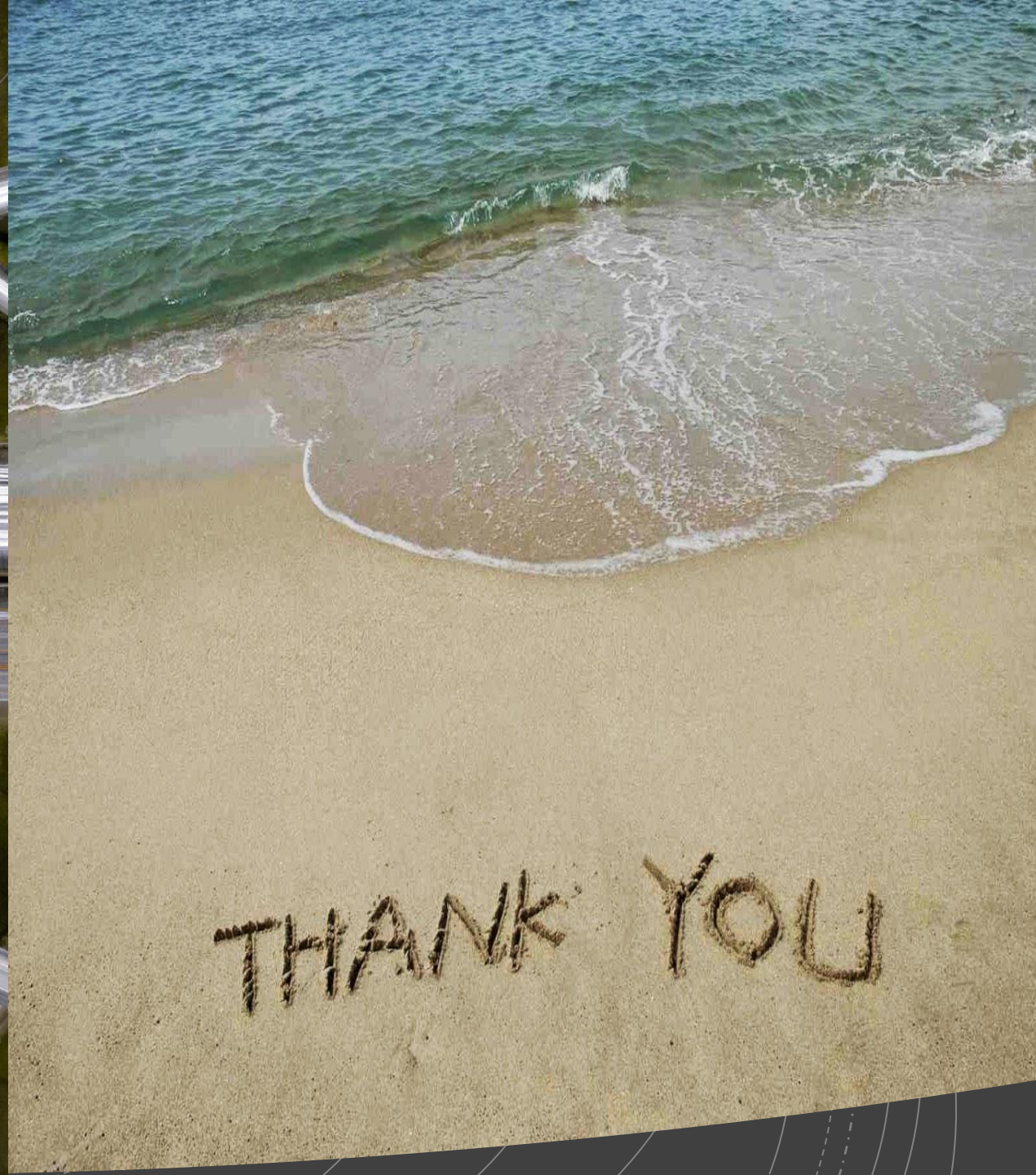

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Graham Donaldson is Director, Regulatory Affairs at PharmaLex UK. Graham has over 17 years of regulatory consultancy experience and leads PharmaLex's UK and Ireland Centre of Excellence Service Delivery Area.

Regulatory Challenges and Solutions

Graham Donaldson
Director, Regulatory Affairs

23rd September 2022

Contents

- General Regulatory Challenges
- Marketing Authorisations for existing licences
- New UK MAA Routes
- New MHRA Collaborations

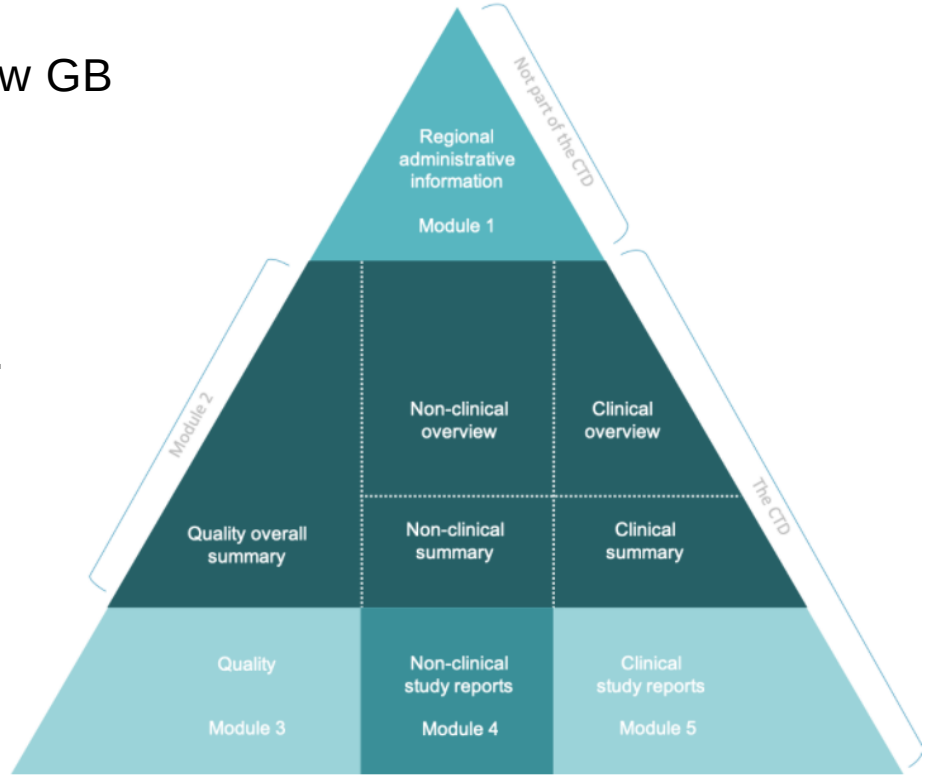
General Regulatory Challenges – post-Brexit for UK

- Lack of published guidance or guidance which is published very late – provides issues for training, compliance and updating of internal procedures.
- MHRA resource.
- Duplication of effort with finite regulatory resource within companies.
- Potential delays to submissions and approval in GB and NI.
- Reduced supply of medicines to NI.
- Reliance on existing EU forms and systems.

UK Marketing Authorisations – for existing products

- All existing Centrally Authorised (CAP) MAs were converted into UK MAs effective in **Great Britain** (only) and issued with a new MA number on 1 January 2021, in a process known as **'grandfathering'**.
- Companies submitted initiating sequences, for baseline data, for the new GB only grandfathered product. Submitted by the end of 2021.
- Resulting in parallel MAs; 1. for EU CAP and 2. for GB only.

- Existing CAPs remain valid for marketing products in **Northern Ireland**.
- Existing **Nationally Authorised** MAs continue as pre-Brexit.
- MHRA have presented options for managing **MR/DC Procedures**.



European Commission (EC) Decision Reliance Procedure - ECDRP

- New GB MAs can follow **CAP procedures**, utilising the EU Reliance Route…. **until end of 2022**.
- Wait until the product has received a positive opinion from the CHMP**.** The application will be determined when the EC decision has been confirmed.
- A 67 day process thereafter to obtain a GB only MA.
- Used extensively for products falling under the centralised licence categorisation post-Brexit.

EU Reliance Route for Variations Submissions

- UK/GB national variations continue to follow current EC variations regulation. Current variations classification guidelines continue to apply
- Variations to purely national MAs (PL, PLGB and PLNI) can be presented to the MHRA under the reliance route.
- Can submit either by national only or reliance route for the Type IIs and Type IB.
- The Type IA cannot rely on the EMA decision so should be submitted in parallel to the EMA.
- If done in parallel (to EMA and MHRA), the MHRA will perform a full national assessment. If done sequentially, provided the variation is identical to that approved for the European MA and evidence of this is included with the submission, the CAP variation approval will be taken into consideration during the assessment process according to the reliance route procedure.
- A lower fee will be charged for reliance variations as less assessment is required.
- MHRA actively encouraging the use of reliance procedure for variations, to reduce workload, and speed up approval process. Plus reduce divergence between the CAP MA and GB MA.

Decentralised and Mutual Recognition Reliance procedure for New MAs

The MHRA can use approval of Marketing Authorisations submitted via MRP or DCP procedures in EU member states with a view to granting the MA in UK or GB.

This route is called the **MRDC Reliance Procedure - MRDCRP**. The MAH submits the MRP/DCP MAA as usual. Once approval is received the entire dossier is then submitted to the MHRA via the MHRA submissions platform.

67 Day Approval Timeframe.

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MRP/DCP – Existing Licenses

For existing MRP or DCP products, MAHs have the choice on how to manage their MAs;

- **A**. Maintain a **UK-wide marketing authorisation** and retain UK(NI) (the UK in respect of Northern Ireland) as a CMS. In this case, the authorisation will continue to be a UK-wide MA with Northern Ireland as a CMS and Great Britain aligned with, but not part of, the DCP/MRP. This will be the default position and no action will need to be taken by the MAH.
- **B**. Request that **separate MAs** are issued for UK(NI) as a CMS, and Great Britain (England, Wales and Scotland)
- **C**. Notify the UK and the RMS (reference member state) in writing that they wish to **remove UK(NI) as a CMS** from the DCP/MRP and maintain a **national MA in Great Britain only**.

MRP/DCP – Variation Submissions

- For licenses maintaining the default option 'A', variations may continue to be submitted and **managed as part of the relevant MR/DC procedure** with NI as CMS to maintain a UK wide authorisation.

- The **RMS will communicate** the outcome of the procedure directly to the MHRA

- **30 day period where the MHRA can reject the RMS decision**, relating to those variations where CMS input is expected (primarily major Type II variations).

- In reality, the MHRA have communicated that they will accept **RMS approval** for all variation submissions, including those with UK specific product information updates.

- For UK or GB MAs attained under a reliance route, variations also need to be submitted to the MHRA. Type IA notifications need to be submitted and processed by the MHRA. Type IB and Type II can be submitted after RMS approval.

National Licenses - Variations

Any specific **article 5 recommendation/classification** request for a UK change will need to be submitted directly to the MHRA who will issue its own recommendation.

Specific changes may have different or additional requirements. These changes include:

- Change to location of PSMF or QPPV
- Implementation of the outcome of referrals and procedures concerning PSUR or PASS
- Submission of protocols and study reports for PASS
- Submission of paediatric study reports for assessment

National Licenses – New MAA Routes

National Procedure - 150 day national assessment – For high quality MAAs. If the application includes Northern Ireland, then it must comply with EU requirements.

Rolling review – MAA submitted in increments for pre-assessment – intended to streamline development of novel medicines

Innovative Licensing and Access Procedure (ILAP) – aims to accelerate the time to market and facilitate access for innovative medicines

Unfettered Access Procedure (UAP)

- UAP is available to MAs approved in Northern Ireland via European procedures (centralised, mutual recognition or decentralised procedures) or via the Northern Ireland National route.
- Marketing Authorisation Applications (MAAs) made through the Unfettered Access Procedure (UAP) should be recognised by MHRA for Great Britain (England, Scotland and Wales) within 67 days of MAA validation, unless Major Objections are identified.
- Seems likely that this strategy will take the place of the current ECDRP.

Northern Ireland MHRA Authorised Route (NIMAR)

- There have been many products set not marketed in Northern Ireland.
- This supply route has been designed to ensure that people in Northern Ireland (NI) can continue to access prescription-only medicines (POMs) should clinical need be unable to be met through authorised products or any other existing regulatory routes.
- NIMAR provides a route for the lawful supply of POMs in compliance with UK and EU rules, where there is a risk that clinical need in NI for that product cannot be met.

MHRA International Collaborations

Project Orbis

Framework for concurrent submission and review of oncology products.

It aims to deliver faster patient access to innovative cancer treatments with potential benefits over existing therapies.

Coordinated by the FDA and is open to MHRA, Australia (TGA), Canada (Health Canada), Singapore (HAS), Switzerland (Swissmedic) and Brazil (ANVISA)

Each country remains fully independent on their final regulatory decision.

MHRA International Collaborations

Access Consortium (Previously known as ACSS)

A work-sharing initiative between MHRA, TGA (Australia), Health Canada, HAS (Singapore) and Swissmedic.

Not all authorities have to be included

3 current authorisation procedures:

- New Active Substance Work Sharing Initiative (NASWSI)
- Biosimilar Work Sharing Initiative (BSWSI)
- Generic Medicines Work Sharing Initiative (GMWSI)

Each agency makes its own sovereign decision based on the recommendations in the Assessment Reports – Approval by one authority does not guarantee approval by all.

Thank you

Northern Ireland Protocol and Challenges for Industry

Presenter: Charley Maxwell – Managing Director, Orion Consulting

Charley has an MSc in Pharmaceutical Manufacturing Technology and has over 25 years of experience in the Irish Pharmaceutical and medical device industry. He is a subject matter expert in local EU and UK country-specific import, licensing and distribution requirements. He is also a Qualified Person as per Article 48 and a Responsible Person as per Article 79 of Directive 2001/83/EC. Charley has extensive consulting experience where he has assisted Irish, UK and European companies in setting up Quality Management Systems, qualifying their vendors, conducting detailed gap analyses and risk assessments and obtaining essential MIA and WDA licences to manufacture, import and distribute their products in Europe and the UK.

CHARLEY MAXWELL

MANAGING DIRECTOR
ORION GXP CONSULTING

NORTHERN IRELAND PROTOCOL AND THE CHALLENGES FOR THE PHARMACEUTICAL INDUSTRY

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Bringing an in-depth understanding of the healthcare industry.

WHAT IS THE NORTHERN IRELAND PROTOCOL

Introduced as part of the Withdrawal Agreement (2019)

- Requires Customs and Regulatory Alignment between EU and NI
- Ratified into both UK and EU Law
- The protocols aims were to:
  - Avoid a hard border between NI and the ROI
  - Assure the integrity of the EU's single market for goods
  - Facilitate unfettered access for NI goods to the GB market.

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NORTHERN IRELAND PROTOCOL – A TIMELINE

2017

29 Mar - The UK Government triggers Article 50

2019

UK Withdrawal agreement – introduces the Northern Ireland Protocol

2020

Withdrawal Agreement Ratified

Transition period commences

Early 2021

Transition ends

Trade & Cooperation Agreement concluded

Customs border in place

Late 2021

Grace periods relating to the NI Protocol introduced

Extended twice

2022

NI Protocol Bill published, to disapply core parts of the NI Protocol

EU threatens Legal action

Future

New UK Prime Minister

NI Assembly must vote on the continued application of the Protocol according to the democratic consent mechanism

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NORTHERN IRELAND PROTOCOL – IMPACT TO THE PHARMACEUTICAL INDUSTRY

Misalignment between requirements for GB and NI (e.g. NI to continue with serialisation & Decommissioning)

More Technical Arrangements

Extra Regulatory Burden

Separate EU & GB Marketing Authorisations For UK-only suppliers, potentially new MAs for NI

Complicates access to NI Markets from GB - Customs declarations Checks on goods

Supply Chain Complexity

Duplication of Effort

Reporting of NI AEs in both the EU and UK Systems

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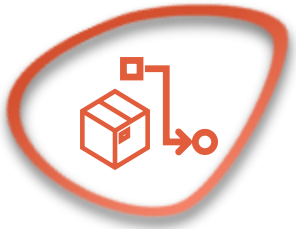
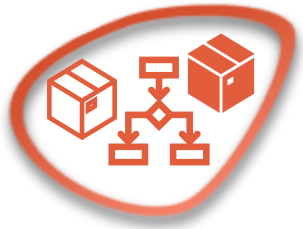
STEPS SOME IN THE INDUSTRY HAVE TAKEN REGARDING NI SUPPLY

- PL(UK) & EU Marketing Authorisations
- EU, PLUK (UK), PLGB (GB Only) and PLNI (NI Only)





- Single SKU (stock keeping unit) for UK supply
- Separate NI SKU or Joint packs for NI Supply

- Supply chain route to NI via GB
- Supply NI direct from EU using other hubs

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INDUSTRY REACTION TO REQUIREMENTS FOR NORTHERN IRELAND

NORTHER IRELAND MANUFATURERS

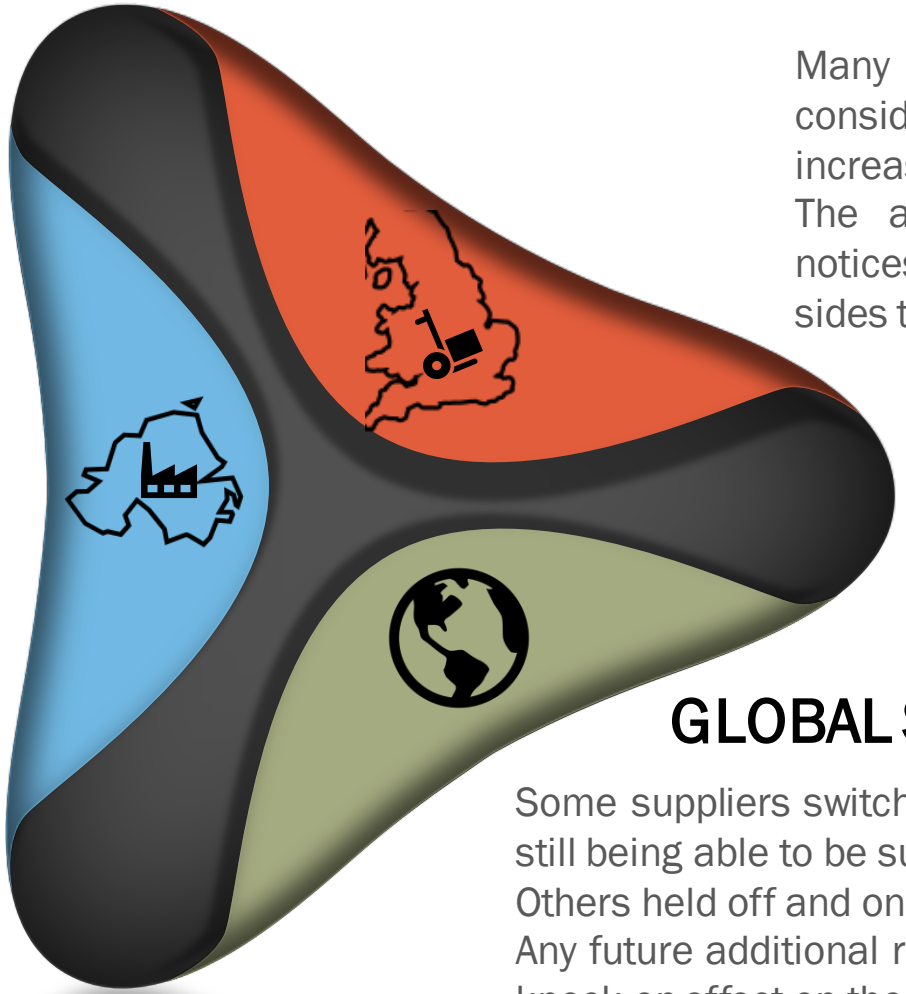
Currently, pharmaceutical businesses in Northern Ireland can supply both GB and the EU without any requirements to duplicate testing or release.

Obviously therefore any radical changes to this would not be in their interest.

"The NI Protocol is positive for us… without it would mean permanent cost duplication"

Liam Nagle,

Chief Executive of Norbrook Laboratories speaking in the Belfast Telegraph



GB DISTRIBUTORS

Many manufacturers and wholesalers considered ceasing supply to Northern Ireland or increased their prices.
The alarming number of market withdrawal notices to the MHRA last year prompted both sides to agree on the small market derogation.

Boots –Recommend removing medicines completely from the NI protocol in recent written evidence to a House of Lords committee on the Protocol.

GLOBAL SUPPLIERS

Some suppliers switched to supply NI via joint EU packs, while still being able to be supplied via derogation measures.
Others held off and only supplied using the derogation.
Any future additional regulatory burden obviously would have a knock-on effect on the cost of supply to Northern Ireland.

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RECENT ACTIVITY TO STREAMLINE NI SUPPLY

Derogations

- Temporary derogation for Cyprus, Ireland and Malta
- They can continue to source medicines from UK if needed.
- Expected that within three years this is phased out

EU – Express Lane Proposals

- EU 'express lane' system proposed in late 2021.
- Companies in GB could keep regulatory functions in GB.
- Required labels indicating "For sale only in the UK", ECJ jurisdiction & GB-NI Border Control Posts –Politically sensitive!

NI Protocol Bill

- UK government published a command paper followed by a new bill to unilaterally amend parts of the Protocol.
- EU Commission reacted with four infringement procedures.
- Will this make cooperative arrangements like the derogations or a future MRA less likely?

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UK GOVERNMENT OBJECTION TO THE PROTOCOL & ITS IMPLEMENTATION

The UK Government outlined 3 main objections in the command paper to the implementation of the NI Protocol:

Too Stringent

- Checks required on goods going to NI too stringent, Irish sea checks represent 20% of the EU total, yet NI's population is just 0.5% of that of the EU.

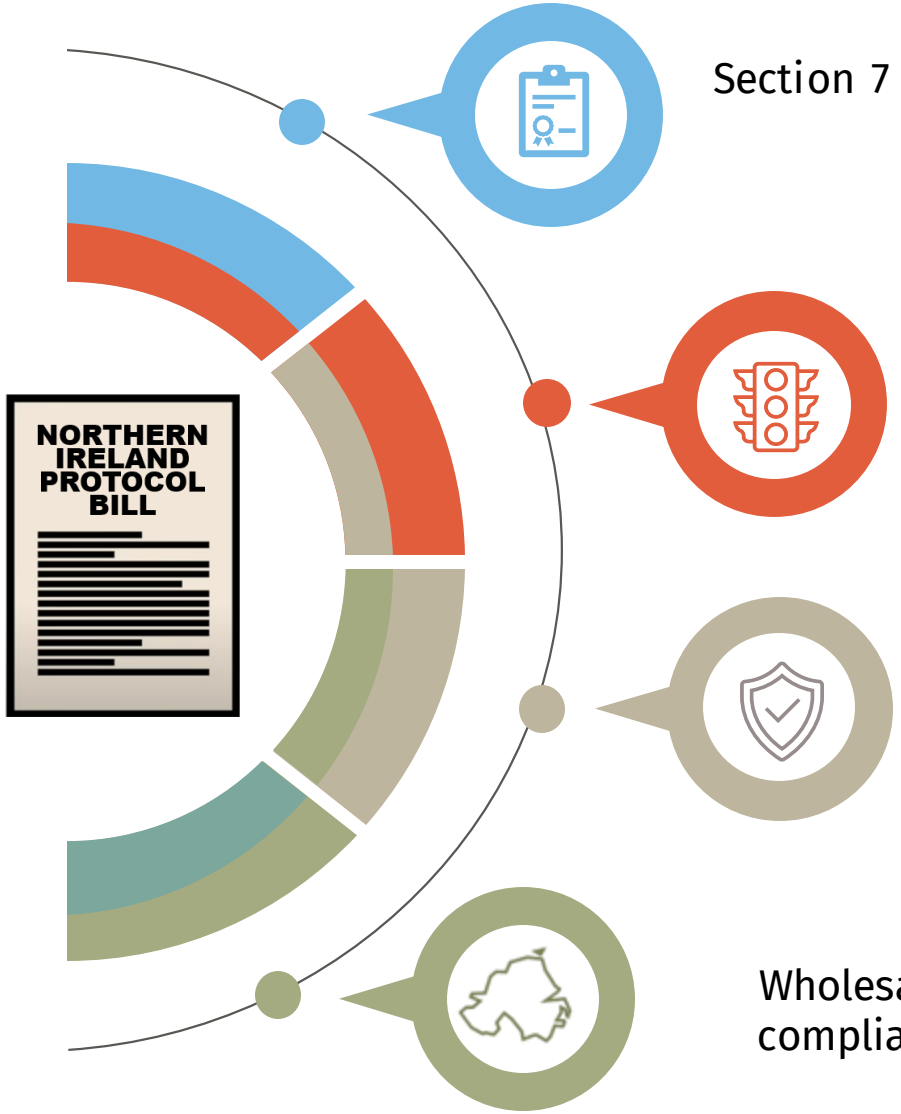
Unionist concerns

- NI protocol risked undermining the Good Friday agreement by disaffecting the Unionist community, who refused to enter power sharing until the issue was resolved.

Sovereignty

- an overreliance on EU law and the ECJ as the final arbitrator which is seen as a violation of UK sovereignty.

THE NORTHERN IRELAND PROTOCOL BILL



Regulation of goods

Section 7 - Option to choose compliance with a UK regulatory route or the EU regulatory route (or both) with respect to regulated classes of goods (includes manufactured goods, medicines and agri-food).

The UK's Proposed solution

New green and red lane approach backed by commercial data and a trusted trader scheme

No customs checks or inspections for Green lane (to stay in UK)

Trusted Traders

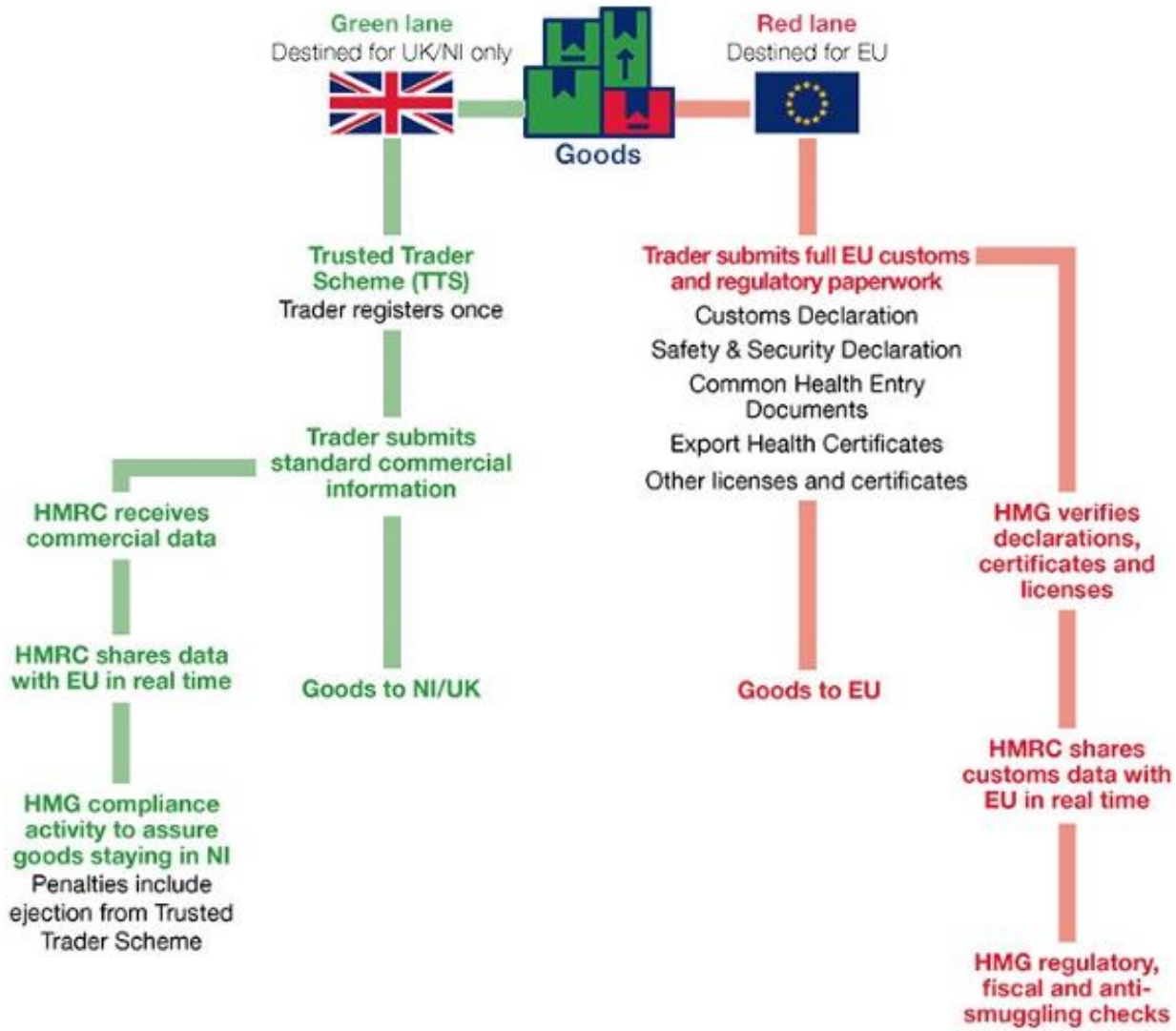
Trusted traders would provide detailed information on operations & supply chains and would be subject to audit and compliance inspections.

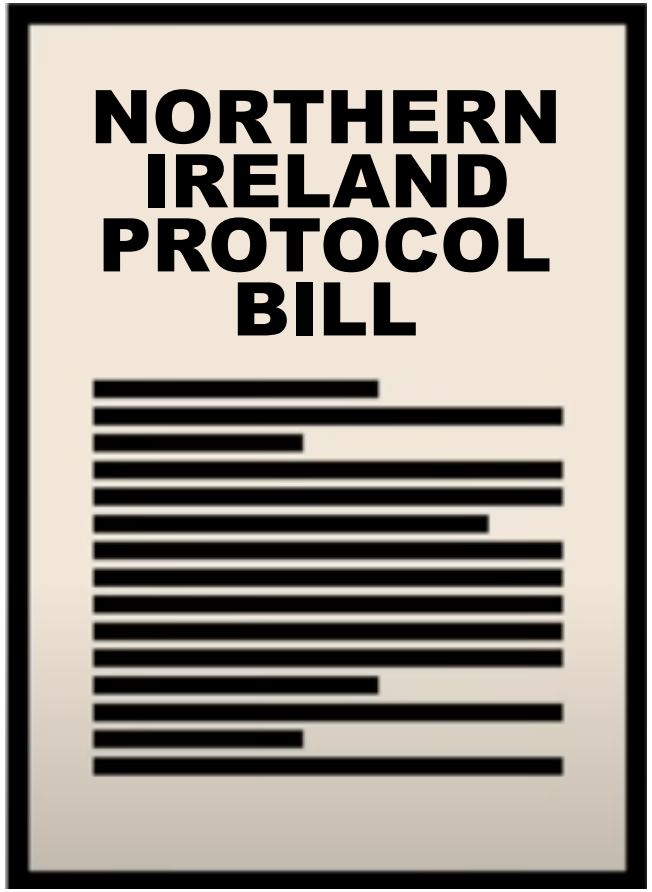
What does this mean for Medicines in Northern Ireland?

Wholesalers would be able to supply either EU-compliant medicines or UK-compliant medicines as long as there were steps in place to ensure the UK-compliant medicines do not cross into the EU.

GREEN LANE / RED LANE PROPOSAL

- The system would rely on traders themselves declaring where the goods are destined for.
- In the new model, the UK would continue to share data with the EU based on assurances of the correct operation of the trusted trader scheme





SO WHAT DOES THE NEW BILL MEAN FOR THE PHARMA INDUSTRY?

Currently at the second reading stage in the House of Lords,
Could be sent back for amendment prior to Royal assent.

If passed in its current form:

- Derogations would be made permanent & would apply to veterinary medicine.
- Distributors could continue to supply NI with “GB” packs as long as they were only intended to be for NI.
  - i.e. non-serialised, tested in GB and with a UK Marketing Authorisation.

- There would be no changes for any supply into NI from the EU. However, this could become problematic?
  - It is not clear if NI Pharmacists would still need to decommission at the point of dispense.
  - What happens if EU suppliers supply serialised products going into NI, but in future it became no longer a requirement for NI wholesalers / Pharmacists to decommission?

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SOME FURTHER DIVERGENCE AND MOVEMENT TOWARDS AN MRA

- The UK continues to unilaterally accept EU batch testing and QP release; with arrangements for import using the Responsible Person (import) or RPi process currently in place.

- However, the UK stated previously that they would revisit that by 31st December 2022. The DHSC opened this up to public consultation and the 26th July deadline to respond to the consultation has now passed.

- This could trigger a 2-year transition to eventually require testing and QP release for imports from the EEA.
- This is strongly opposed by the British Pharmaceutical Industry Associations (ABPI and BGMA).

- The Trade and Cooperation Agreement (2021) - Annex 12: deals with medicinal products, it regulates the recognition of the results of Good Manufacturing Practice (GMP) inspections by EU and UK authorities.
- However, there has been no further progress on mutual recognition of testing or release.

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WHAT HAPPENS NOW?

Weeks

New Prime Minister forms cabinet and sets policy

Liz Truss?

Will there be a different approach from previous tactics by Boris Johnson and Lord Frost?

Months

NI Protocol Bill due to pass

Legal Action between the EU and UK

Reforming of NI Assembly?

Decision on whether import testing and QP release required in the UK for medicines originating in the EEA

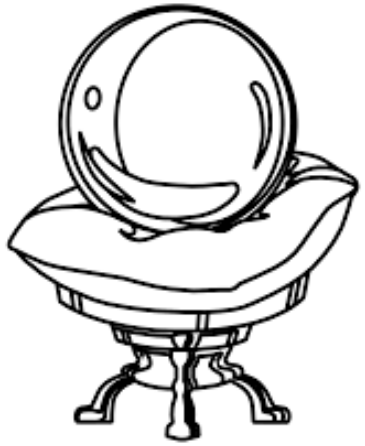
Years

General elections

2023 - UK to introduce its new regime for border import controls.

2024 - NI Assembly must vote on the continued application of the NI Protocol according to the democratic consent mechanism.

2025 - First review of the EU-UK Trade and Cooperation Agreement, to take place every five years



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Ireland / Industry Perspective

Presenter: Pat Ivory – Director, EU and International Affairs IBEC

Dr Pat Ivory Director of EU & International Affairs, Ibec Dr Pat Ivory is Director of EU & International Affairs at Ibec. He has represented Irish business at European and international level for more than 20 years. Prior to joining Ibec, Pat worked as a corporate planner and economist in the private and public sectors. Pat is Chair of the Business at the OECD (BIAC) Trade Committee that provides business perspectives to the OECD on trade issues. Pat is also Chair of the Business Europe International Relations Committee, which sets the business priorities on trade policy through its working groups and networks. He has been a lead business representative in engagement with government officials on EU affairs and trade policy, including on EU-US trade and investment relations and WTO policy. Pat completed a PhD focused on industrial clusters at Dublin City University (DCU) and BA (Mod) and MLitt degrees in Economics from Trinity College Dublin.

PDA Ireland BREXIT Conference

Dr Pat Ivory
Director of EU and International Affairs

September
2022

Ibec

PDA Parenteral Drug Association Ireland Chapter

PDA Parenteral Drug Association United Kingdom Chapter

EU-UK relations: State of play

Different EU and UK views

- **UK wants to renegotiate** central elements of the Protocol on Ireland and Northern Ireland (Protocol).
- **EU** states that the **Protocol is not up for 'renegotiation'** but is an important part of the Withdrawal Agreement (WA) signed by the EU and UK and is international law.
- **EU** emphasises the need for the UK to seriously engage in technical discussions to resolve the issues and points out that agreements have been reached in other area e.g. crime and law enforcement, data adequacy decision etc.

EU-UK relations: State of play

Liz Truss, the **new UK Prime Minister,** outlined her preference for a negotiated solution, but only if it delivers what the UK government sets out in the Northern Ireland Protocol Bill.

Chris Heaton-Harris was appointed as the new **Secretary of State for Northern Ireland**,

NI Protocol Bill continues to undergo scrutiny in the UK Houses of Parliament, passed its third reading in the Commons now in the House of Lords.

- The Bill provides a mechanism to **disapply articles of the Protocol**, including customs procedures on trade in goods between Britain and Northern Ireland. It also challenges the role of Court of Justice of the EU in the Single Market, state aid rules, and VAT as they apply in NI.
- The EU has declared that this a **breach of international law** and has restarted and initiated **new infringement proceedings.**
- If the **UK Bill** becomes law and operational, the EU may consider **further action** involving the TCA.

Ibec

PDA Parenteral Drug Association Ireland Chapter

PDA Parenteral Drug Association United Kingdom Chapter

Protocol on Ireland and Northern Ireland

- **Ibec** continue to engage with both sides to support sensible outcomes for business and society.

- The **EU** have preserved the **supply of medicinal products** in Northern Ireland. For three years, it allows UK medicinal products to be sold in Ireland, Malta and Cyprus with no requirement for authorisation holders to be established in the EU.

- **Ibec and its members** in submissions to the **UK House of Lords Sub-Committee emphasised that:**
  - The Withdrawal Agreement (**WA)** and Trade and Cooperation Agreement (**TCA)**, however imperfect, are **necessary** to deal with the impact of the UK decision to leave the EU.
  - Protecting the gains of the **Belfast / Good Friday Agreement (B/GFA)** is important not only in Northern Ireland but also for the UK and Ireland.
  - The **Protocol** has been **successfully** serving its purpose. For eg, by enabling **all island businesses** such as the dairy, alcohol, retail, construction, and medical technology sectors to continue to operate **complex supply chains** and **trade.**

Protocol on Ireland and Northern Ireland

- **Ibec continues to urge both the UK Government and the European Commission to;**
  - reengage for the **sustainable implementation of the Protocol using the existing Specialised Committee framework provided under the withdrawal agreement.**
  - work on the basis of the Commission's proposals for solutions to ease the flow of goods from Britain to Northern Ireland, which respect the integrity of the EU single market, and the UK Government Command Paper.
  - reach an **agreed solution on the Protocol**; one which will respect the B/GFA in all its dimensions and not jeopardise the integrity of the EU single market.
- A **key priority must be** to sustain the stability that has delivered investment and growth in Northern Ireland, which is underpinned by the B/GFA.
- The **strong cooperation** between the EU and the UK in response to the **Russian invasion of Ukraine** has been welcome and has demonstrated that the two parties can work together.
- The EU and UK have reached agreement on **implementation aspects of the withdrawal agreement** by sitting down to resolve issues, for e.g. in the areas of law enforcement and data adequacy.

House of Lords Committee report

On Labelling

- Several witnesses pointed to the practical challenges of solutions around labelling. For instance, that the introduction of dual labelling marks in a small market such as Northern Ireland created challenges for businesses. They called for UK-wide recognition of the CE mark.

Report conclusion

- In sum, the need for a reset, prioritising Northern Ireland's interests, constructive engagement, trust and relationship-building,

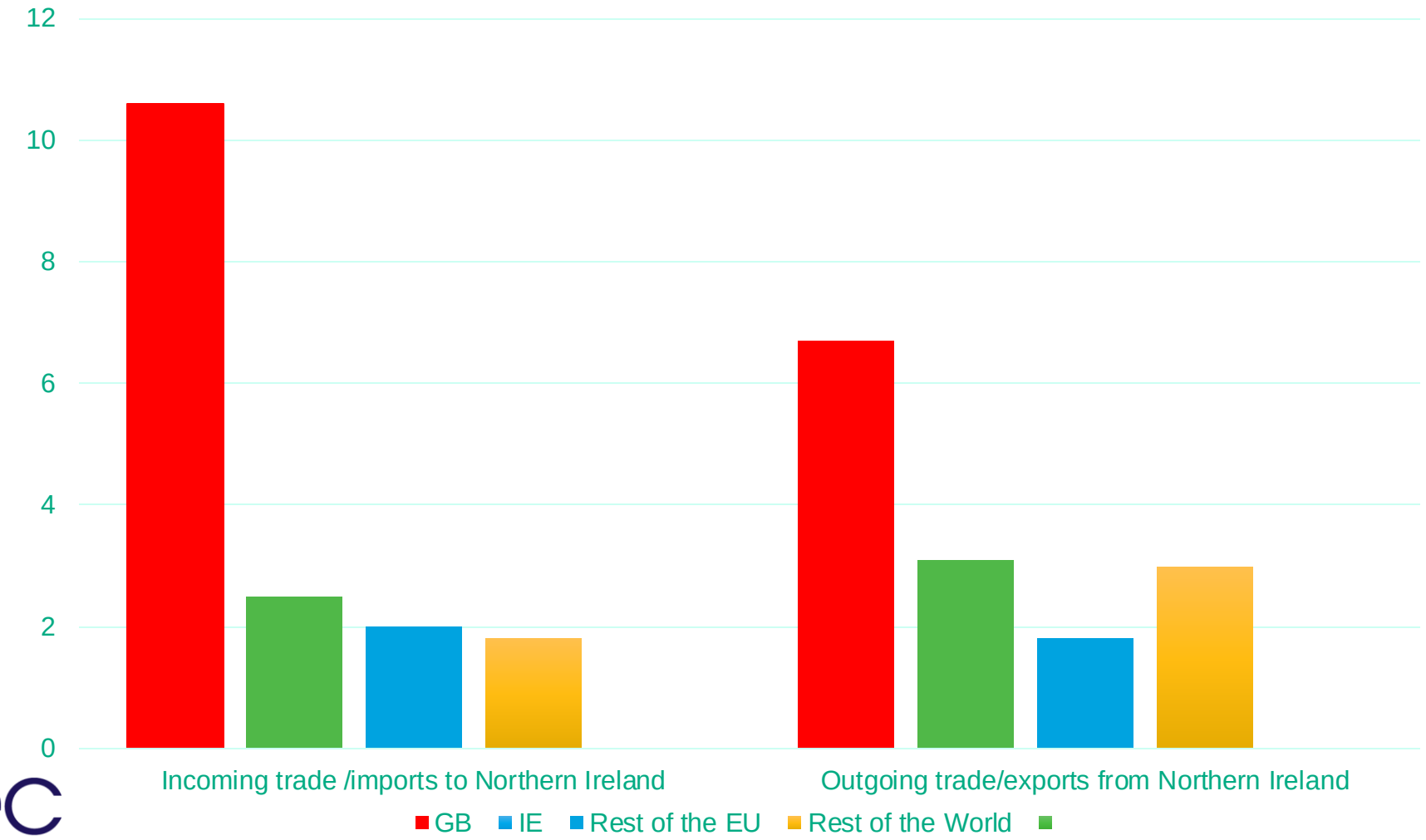

HOUSE OF LORDS

European Union Committee

9th Report of Session 2019–21

The Protocol on Ireland/ Northern Ireland

Northern Ireland trade in goods (2020)



EU-UK relations: Ibec response

- The **Protocol** will continue to operate under its present conditions, including grace periods introduced by the UK, meaning that no changes are expected in the short-term for businesses.
- Ibec will **closely follow** the consideration of **Northern Ireland Protocol Bill** by the UK Parliament and the progress of the EU infringement procedures against the UK.
- Ibec is continuing to **engage with the European Commission, Irish Government, and UK officials** on behalf of Irish business to urge all parties to work together to achieve an agreed solution to ensure that the Protocol continues to respect both the **B/GFA** and the integrity of the **EU single market.**

UK Exit from EU: Regulators Perspective

Presenter: David Cockburn – Former Head of Manufacturing and Quality Compliance, EMA

David Cockburn retired from the European Medicines Agency (EMA) in 2017 where he was Head of Manufacturing and Quality Compliance. A Pharmacy graduate, David has grounding in the pharmaceutical industry augmented by roles in the authorities at national and EU level. Industry exposure included Regulatory Affairs at GD Searle and Production at Glaxo Operations, both in the UK. David joined the U.K Medicines and Healthcare products Regulatory Agency as a Principal Medicines Inspector and spent 14 years there before moving to the EMA where he spent 15 years. While at EMA he was appointed as an expert for the ICH Q8, Q9 and Q10 Implementation Working Group and later as EU's deputy lead on ICH Q12 (Lifecyle Management). His last 3 years at EMA were part-time in preparation for retirement but he continued as Chair of the GMP/GDP Inspectors Working Group and acted as EU's technical lead in the development of the EU-USA Mutual Recognition Agreement on GMP Inspections. Since retiring David has formed associations with a number of organisations promoting training and education on Good Manufacturing Practice and medicines' quality. In 2019 he had the privilege of serving on the expert committee on Mutual Reliance in the Regulation of Medicines of the US National Academies of Sciences Engineering and Medicine.

UK Exit from EU: Regulatory Perspective

David Cockburn
Formerly Head of Manufacturing and Quality Compliance, EMA

Agenda

- EMA's Brexit Priorities
- European Commission's Pragmatic Approach
- Medicines Regulatory Impact for EU and UK
- Where are we now?

Location of EMA

- Churchill Place, London
- Criteria for new location
- Bids from 19 member states
  - Amsterdam chosen by EU Council November 2017
- Relocation to Amsterdam
  - Fully operational in temporary location (Sloterdijk) March 2019
  - Relocation to permanent location (Zuidas) January 2020
- Business continuity plan

EMA Work Redistribution

- UK (co)rapporteur for 370 CAPs
  - Reallocated by April 2018
  - UK excluded from new MA activities from February 2018
- UK supervisory responsibilities
  - Transferred when MA variations approved for new EU Import/Batch Release site (see slide 6)

EU Regulatory Mantra June 2016

UK will become a third country. The consequences of this and the actions required are already known. Do not assume that the new future relationship will change these consequences.

Known Consequences

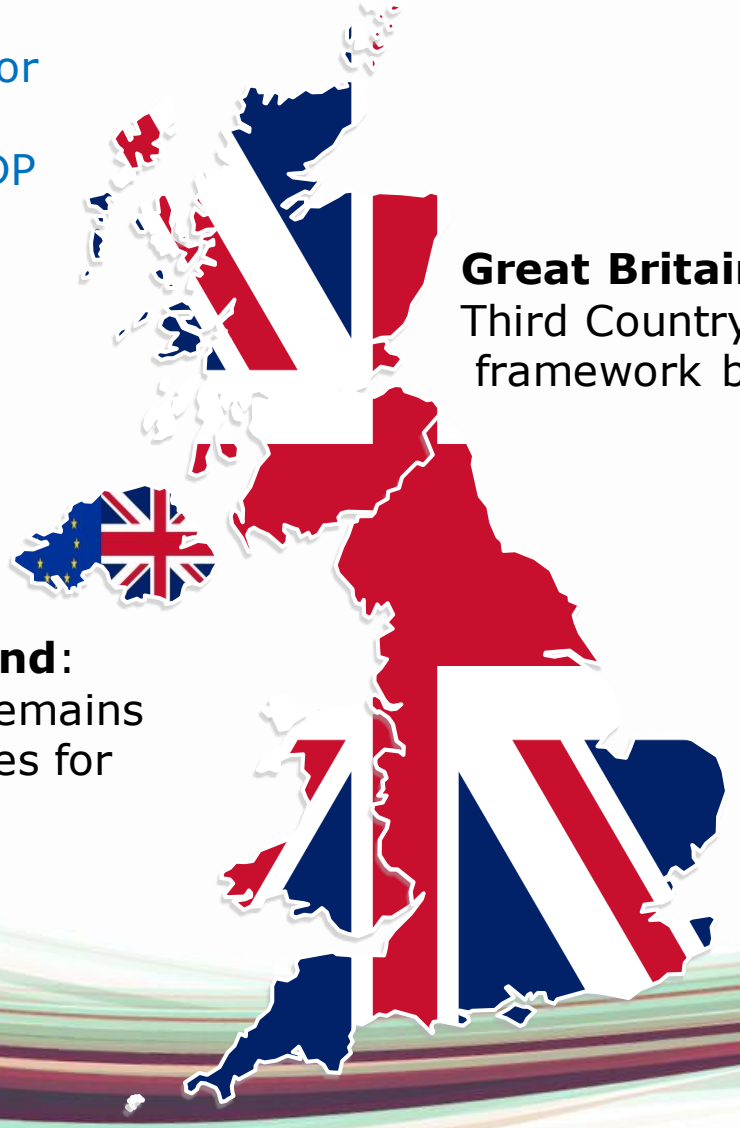
- All MA procedures impacted
  - Central, DCP, MRP, National
- Proactive EU MA variations as needed
  - MAH located in EU/EEA
  - QPPV located in EU/EEA
  - Site of "Batch Release" (and import testing) located in EU/EEA
    - Testing performed in EU for imports from UK
  - OCABR performed in EU/EEA

Changes to UK medicines legislation

- Human Medicines Regulation 2012 and Medicines for Human Use (Clinical Trials) Regulations 2004
  - Consolidated UK medicines legislation
  - Includes transposed EU law
- Amendments
  - SI 2019/775 consequential to UK third country status
  - SI 2019/1385 correction of drafting defects
  - SI 2020/1488 consequential to NI Protocol
  - Include provisions empowering future changes

United Kingdom: Two relationships with EU

MHRA/VMD remain NCAs for entire UK
- Write-access to EudraGMDP for sites in NI
- Can refuse MA in reliance procedures (see slide 10)
- Can take unilateral post-market action against any product in all parts of UK



Great Britain:
Third Country with legacy regulatory framework based on EU

Northern Ireland:
Part of UK but remains bound to EU rules for goods

UK: Validity of existing MAs on EU Exit Day

MA Type	
CAP	Unchanged in NI
CAP	Converted to GB MA*
UK MA	Unchanged*

*MAH must be located in UK by 1 Jan 2023

New UK MAs after EU Exit Day

MA Type		Comment
CAP	Automatically valid in NI	MAH in NI or EEA
MRP/DCP	NI MA if NI is CMS	NI cannot be RMS
CAP/MRP/ DCP/NI	Unfettered Access Procedure for GB MA (67 days)	Existing MA valid in NI
CAP/MRP/ DCP	EU Reliance Procedure (67 days)	GB,NI or UK MA
National	GB, NI or UK MA (150 days)	Accelerated and ACCESS* procedures possible

*Australia, Canada, Singapore, Switzerland

ASMFs continue to be accepted by MHRA
CEPs unaffected by Brexit

EU-UK MRA

- Part of EU-UK Trade and Cooperation Agreement
  - GMP inspections mutually recognised
  - Covers all product types
  - Option to recognise extra-territorial inspections
  - **No waiver for import testing**
    - No testing for import into UK from EU/EEA until at least Jan 2023

UK roll-over of EU MRAs: Australia, Canada, Israel, Japan, New Zealand, Switzerland, USA

Official Control Authority Batch "Release" (OCABR)

- For GB Market UK (NIBSC) or MRA partner "release" required
  - MRA partners currently: Switzerland and Israel
- For NI market EU/MRA OCABR or UK NIBSC "release" required

Safety Features

- Still required in NI
- Unique Identifier not mandatory in GB
- NI importer is not required to affix new safety features for imports from EU via GB
  - EU Regulation 2016/161 amended to exempt exports from EU to GB from decommissioning
- MHRA recommends retention of tamper-evidence features for GB market

QP certification (marketed products)

- Import to EU from GB
  - Testing and Batch Certification in EU/EEA
- Imports to GB from "Approved Country for Import" (currently EU/EEA)
  - New type of WDA with Responsible Person (Import)
    - RP(Import) verifies QP certification in EU/EEA (and OCABR if needed)
    - Approved country batch testing recognised (until at least 1 January 2023)
      - MRA partners (same as EU) are included in list of "Approved country for batch testing"
- No fundamental change for UK QPs:
  - Manufacture in UK
  - Import into NI
  - Import into GB from non-approved countries

QP Certification (IMPs)

- Import to EU/EEA from GB
  - Batch Certification in EU/EEA
- Imports to GB from "Approved Country for Certification of IMPs" (currently EU/EEA)
    - MIA(IMP) required but QP not required to re-certify imports already QP certified in approved country
    - QP resident in EU/EEA acceptable on UK MIA(IMP)
- No Fundamental change for UK QPs for:
  - Manufacture in UK
  - Import into NI
  - Import into GB from outside EU/EEA

Potential shortages

- Commission Notice December 2021 extends derogations until at least 31 December 2022*
  - GB location of MAH for UK MAs
  - Import into NI from GB via WDA
  - Testing waived for import from GB to NI if testing done in GB (or EU/EEA)
  - No MIA(IMP) for import of IMPs to NI from GB
- Similar easements for Cyprus, Malta and Republic of Ireland
  - Historically dependent on medicines supply from UK
- NI MHRA Authorisation Route (NIMAR)
  - List of 70 products that, subject to GBMA, can be supplied to NI

*Pending related changes to EU legislation

What will the future bring?

- Political ideology may determine extent of UK divergence from EU
- GMP rules and MA standards unlikely to diverge
- Existing NI protocol dispute may escalate
  - Continuation of NI protocol depends on "Democratic Consent" of NI Assembly by 1 Jan 2025
- Future changes to UK legislation only after 2 years notice

Thanks for Listening

A Lifescience Industry Perspective

Presenter: Mark Jackson – Managing Director, Merck Lifescience UK Ltd

Mark is currently the Life Science Head of Distribution for UK & Ireland as well as the Managing Director for several Life Science legal entities of Merck in the UK. Merck have many sites across the UK & Ireland covering all aspects of production & distribution for up to 600,000 sku's of products along with various Commercial & Group functions.

During Mark's career at Merck, he has spent time in the UK and Germany in a variety of operational and customer facing roles. Over 35 years of experience in the Supply Chain and general Business has required a focus on leadership, team development and innovative bespoke solutions to ensure on-going growth and success.
Mark also represented Life Science on the Brexit Project Team, focusing on ensuring minimising the impact on customers across the region.

Merck & Brexit

A Life Science Industry Perspective

Mark Jackson
MD Merck Life Science UK Ltd

Brexit – A Life Science Industry Perspective
Agenda

1. Introduction
2. Merck's Strategy towards Brexit
3. Outcome & Key Learnings
4. On going challenges
5. Questions

Introduction

01

Part of a

VIBRANT SCIENCE AND TECHNOLOGY

company with over 350 years of history.

At Merck, science is at the heart of everything we do. It drives the discoveries we make and the technologies we create.

Who is MERCK

We are

a vibrant science and technology company

Founded in 1668, Merck is the world's oldest pharmaceutical and chemical company and comprised of three unique businesses focused on healthcare, life science and electronics.

GLOBALLY WE ARE...

€19.7 BN
IN SALES (2021)

60,000
GLOBAL COLLEAGUES

350+
HISTORY

66
COUNTRIES

Brexit

Three High-Tech Businesses Competing in Attractive Markets

Healthcare

As One for Patients

Leading among
SPECIALTY PHARMA
markets

- Biologics and small-molecule **prescription medicines** against cancer, multiple sclerosis, infertility
- **Research** focus: Oncology, Immunology & Immuno-Oncology

Life Science

Impacting Life and Health with Science

A leading
LIFE SCIENCE
company

- Tools and services for **biotech research and production**
- **Tools and laboratory supply** for academic research and industrial testing

Electronics

Advancing Digital Living

A leading company in
HIGH-TECH SOLUTIONS

- High-tech solutions and materials for **electronics**
- Broad portfolio of **decorative and functional solutions**

Brexit
UK & Ireland Footprint – representing all 3 business sectors

All activities: Production, Distribution, M&S, Testing and R&D Services

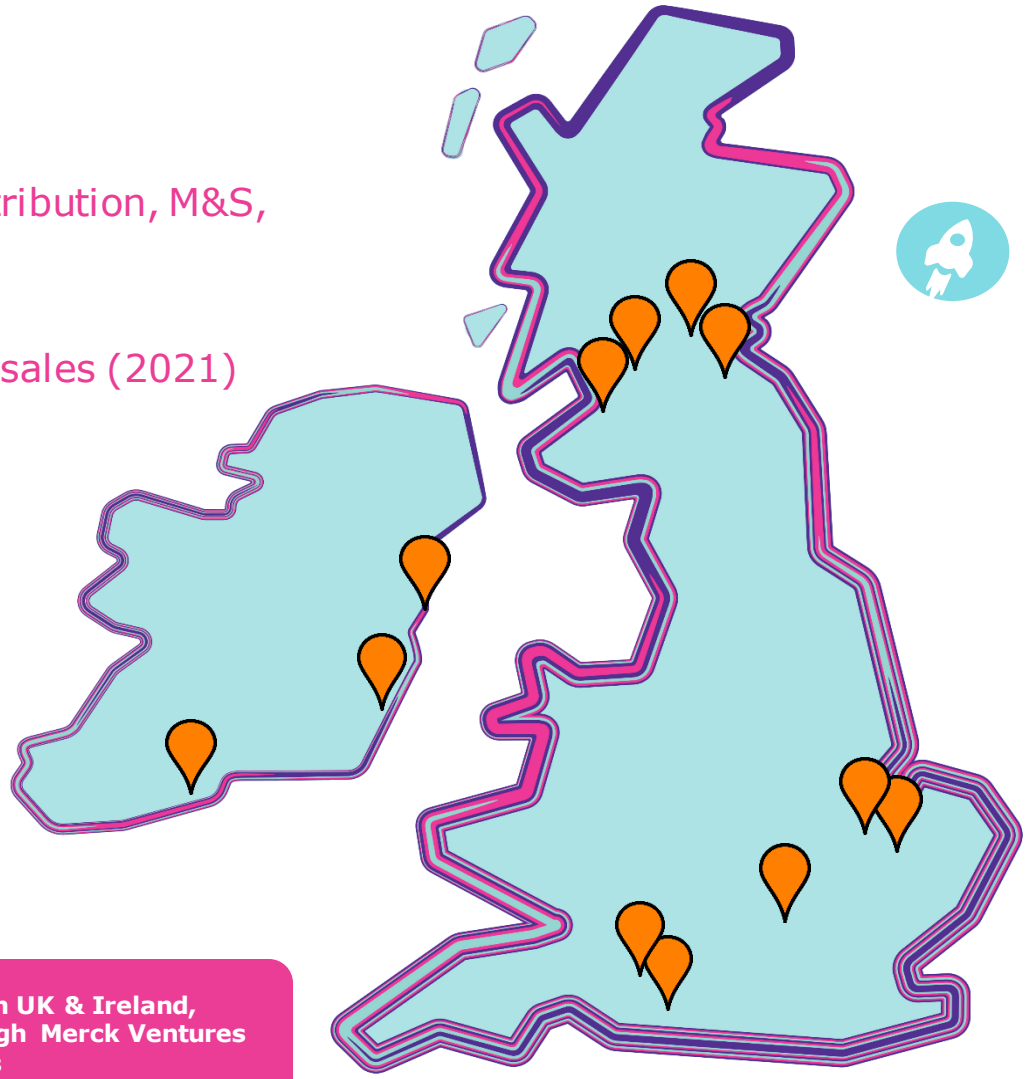
€1.566 Billion – consolidated sales (2021)

~ 2,500 employees

16 sites

- 11 Life Science (9 UK, 2 Ireland)

51* LE - with 11 fully trading entities



Seamless execution of strategic projects

- ✓ Brexit Risk Mitigation
- ✓ Women in Leadership
- ✓ LS expansion projects

*** - Merck accounts for 51 legal entities in UK & Ireland, including 9 with minority interests through Merck Ventures + trustees, holdings and dormant comp's**

Merck’s Strategy towards Brexit

02

Brexit
Merck Strategy

A truly Global Project Team

Sponsored by Merck GL and UK Country Council

Review all possible scenarios

- Deep Dive into all potential impacts in terms of supply chain, research & development & regulatory changes
- Use Risk Assessment approach

All Business Sectors

- Life Science
- Healthcare
- Electronics

Driven by our Merck Values

- Courage
- Respect
- Achievement
- Integrity
- Responsibility
- Transparency

Brexit
Merck Strategy

The decision, based on the outcome of our in depth analysis was to ***prepare for a no-deal Brexit***, with focus on the following:

Trade & Supply Chain	Use our global integrated systems & supply chain to ensure minimal disruption to our customers and patients
Regulatory, Quality & Safety	Ensure fully prepared for changes in the regulatory requirements whilst maintaining Compliance, Quality and Safety at all times
People	Maintain the future security & well being of our colleagues throughout the process

Outcome & Key Learnings

03

Merck Life Science
Outcome & Key Learnings

Trade & Supply Chain

- Increased and maintained higher **Inventory levels in UK & EU**
- Maximised use of integrated global SC to ensure continuity of supply – **new 3PL in ROI**.
- Reviewed and amended **routing & transport modes** to reduce impact on CT
- **Close cooperation & collaboration** with key partners across supply chain
- Major **IT changes** were more complex than first thought
- Many key **global partners** were **not as prepared** as we have expected
- **Increased costs** across SC

Regulatory, Quality & Safety

- Further developed **close cooperation & collaboration** with UK & EU authorities with regards regulatory changes
- Special focus on
  - ABPs
  - APIs
  - GMOs
  - REACH & other chemical regulations
- Expanded inhouse **customs expertise** to support increased complexity and volume
- Major **cost increases** due to clearance and additional resources

Customers

- **Brexit Customer Dossier** – We published several versions of a multi-page document to ensure clear communication to our customers
- Over **£23m of investment** in UK infrastructure
  - **Laboratories** in Glasgow
  - **Manufacturing** in Irvine
  - **Distribution** in Gillingham
- Post Brexit **Hypercare Team** set up to ensure **communication** between key stakeholders and ensure **Business Continuity**

People

- We have worked closely with all of our colleagues across the UK and EU to ensure they were provided with all the **guidance and support required** should they need it
- International experience is key to the development of our people, and as such we have continued to encourage and support **placements between sites and countries**
- **Loss of EU workers** has highlighted previous reliance on foreign labour & **increase in costs** due to availability

Merck Healthcare – Prescription Medicines

Outcome & Key Learnings

We established a cross-functional UK Brexit Taskforce to ensure we were prepared for all Brexit outcomes, to ensure patients received uninterrupted access to our medicines.

Supply chain

- UK and Ireland now have higher **Stock Buffers** maintained
- New **Direct Supply** and **Direct Sales** model in Ireland established
- Implemented **Separate Product Packs** for GB and Ireland/Northern Ireland

Regulatory

- Former EU **Licences "Grandfathered"** now to UK authorities
- **New Products** now typically licenced for GB and Ireland/Northern Ireland
- Ongoing compliance with **End-of-Transition Guidelines**

Quality

- **Responsible Person for Importation** now required
- Close monitoring of developments regarding **Batch testing and QP certification** in the UK and Northern Ireland
- Changes to licencing of **Clinical Trials**
- Compliance with new **Product Serialisation** requirements

Key takeaways

1. Decision to prepare for No-Deal Brexit was the right one.
2. Excellent collaboration & teamwork across the three Business Sectors and Functions at a UK & global level, exchange of best practices and passing a Group IA audit
3. Some key global partners were not as prepared as we had been led to believe. Impact mitigated by high level of Merck preparedness
4. Despite the best preparation the Hypercare Phase & Team played a central role in minimizing supply delays to LS customers

On going challenges

04

Brexit
On Going Challenges

Trade & Supply Chain

- Complexity and knock on impact of Covid; especially driver shortages
- Major impact of additional clearance & duty costs. Looking at bringing in house
- Agents interpretation of import and export regulations (UK & EU)
- Increase in delays especially at channel ports – accentuated by Covid

Regulatory, Quality & Safety

- On going confusion and uncertainty with NI protocol – potential trade war
- Lack of communication, cooperation and alignment between UK & EU regulatory bodies
- Increase in gap between UK & EU regulations

People

- On going recruitment challenges due to lack of EU citizens
- Rising costs due to additional resource, very low unemployment and skill gap/work ethic challenges with some UK labour

Thank you

Any Questions

?

Getting Beyond Brexit - Customs Solutions

Presenter: Trevor Dempsey - Director, BDO Customs & International Trade Services

Trevor is a Director in the BDO Customs and International Trade Services department having joined the firm from the pharmaceutical industry in December 2019.

Trevor has over 15 years of Customs and International Trade Compliance, including Export Licensing, experience in the Pharmaceutical, Logistics and IT industries. In that time, he has brought Customs Simplification & Duty Optimisation procedures from conception through application, verification, delivery, reporting and compliance auditing to employers as well as clients. He has also been a key part of IT installations and projects for Customs activities as well as bonded inventory control tools.
Trevor also has extensive experience in Customs, AEO and corporate internal audits.
He is a trained Auditor and has qualifications in Medical Device Technology as well as Quality Management Systems.

23 September 2022

Getting Beyond Brexit - Customs Solutions

Moving Beyond Brexit Challenges

Trevor Dempsey
Director – BDO Customs & International Trade Services

BDO

Smart business advisors

Agenda

Don’t mention the B word

- The change in requirements
- The challenges brought by the change
- House of Compliance
- Focus on Pharmaceuticals & Medical Device
- Valuation & Transfer Pricing
- Northern Ireland
- The solutions and optimisations available
- The management of the solutions and optimisations
- Strategic Partnerships

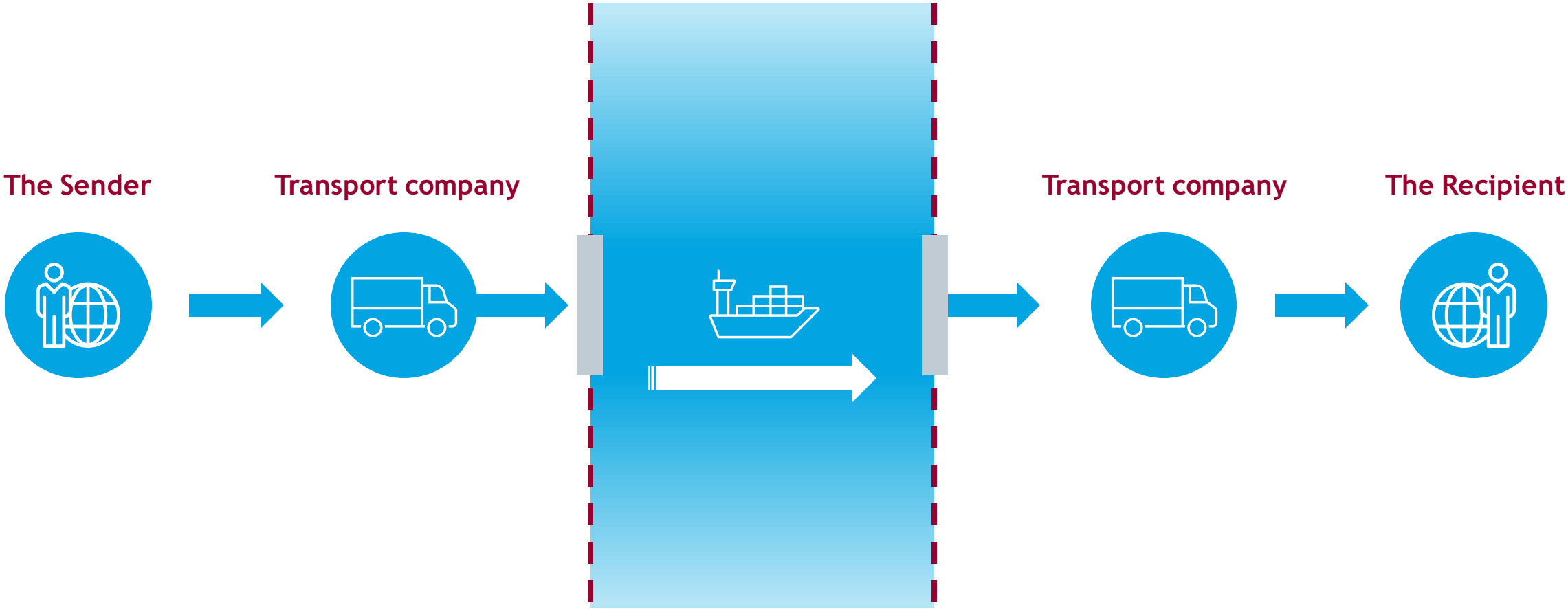
THE NEW REALITY

The change in requirements

The new reality

The change in requirements

Ireland to UK Customs previous requirements (prior to January 2021)



The new reality

The change in requirements

Ireland to UK/UK to Ireland Customs present requirements

Irish Export Requirements

- Invoice Required
- Transport Document
- PBN (Pre-Boarding Notification) *if RoRo
- Export Declaration
- Other Government Agency Document (Export License, HPRA registration etc.)

Irish Import Requirements

- Invoice Required
- Transport Document
- PBN (Pre-Boarding Notification) *if RoRo
- ENS (Entry Summary Notification)
- Import Declaration
- Other Government Agency Document (CHED, HPRA registration etc.)

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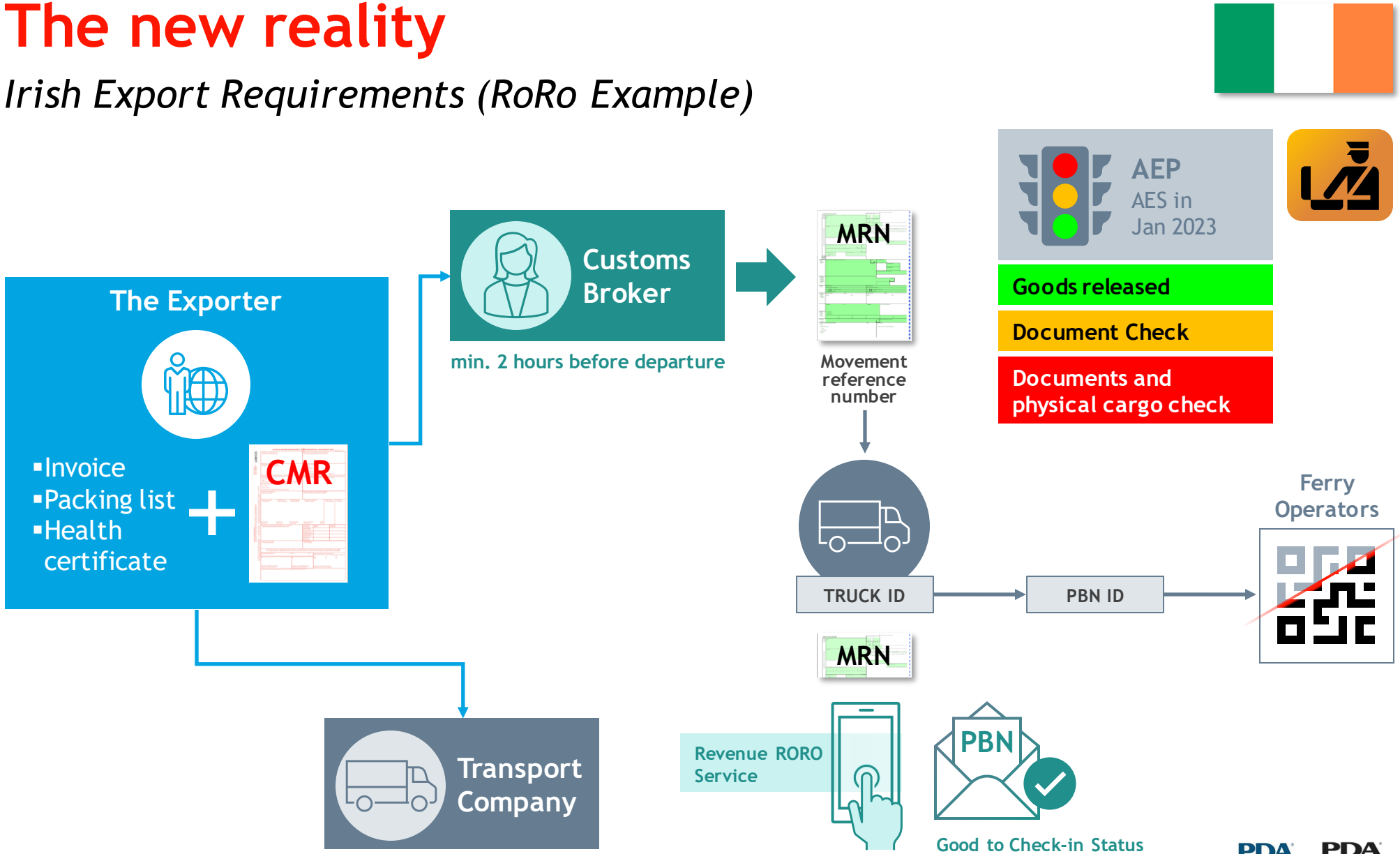
The new reality

Irish Export Requirements (RoRo Example)



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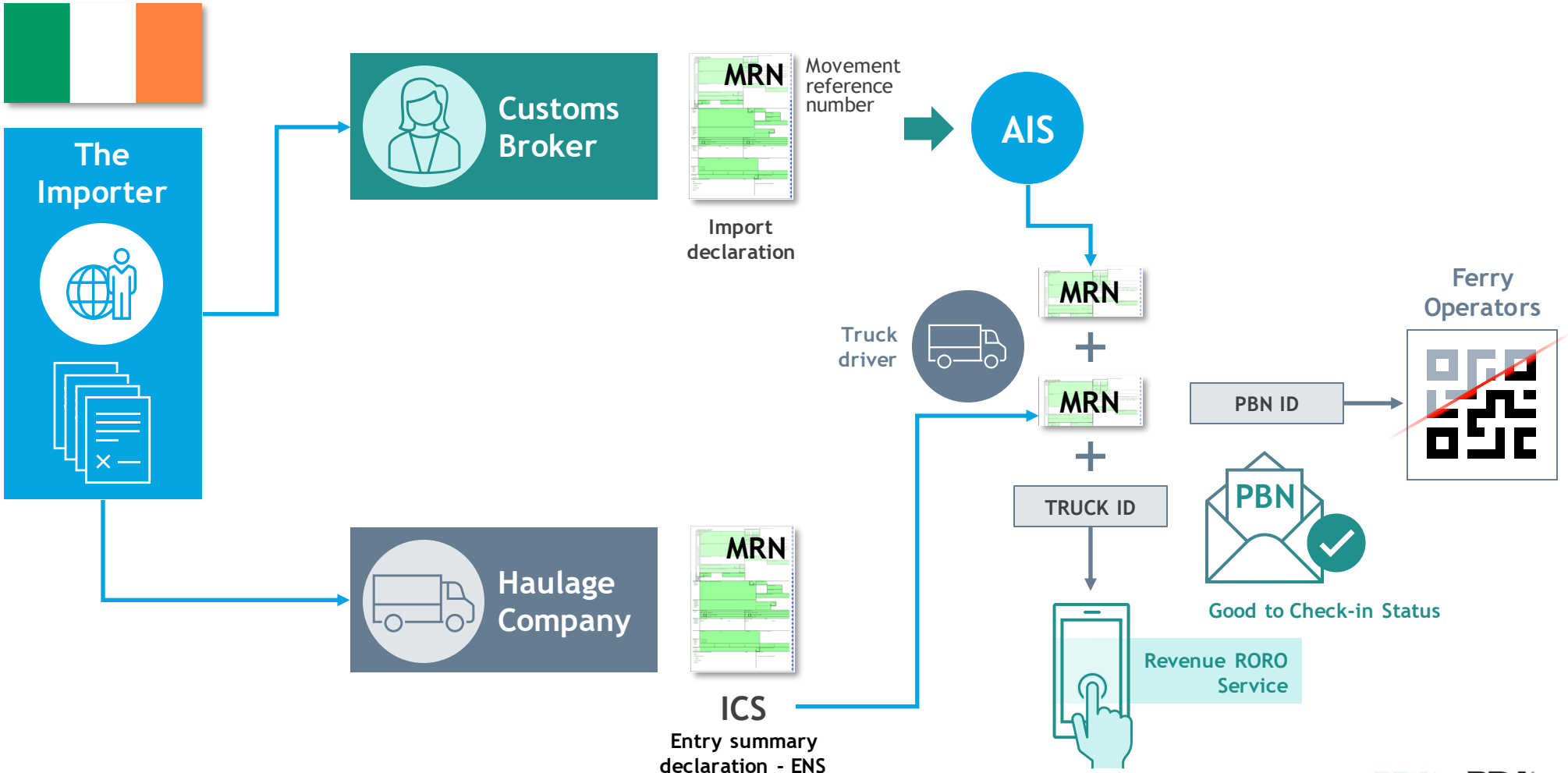
PDA United Kingdom Chapter

The new reality

Irish Import Requirements (RoRo Example) - Part 1



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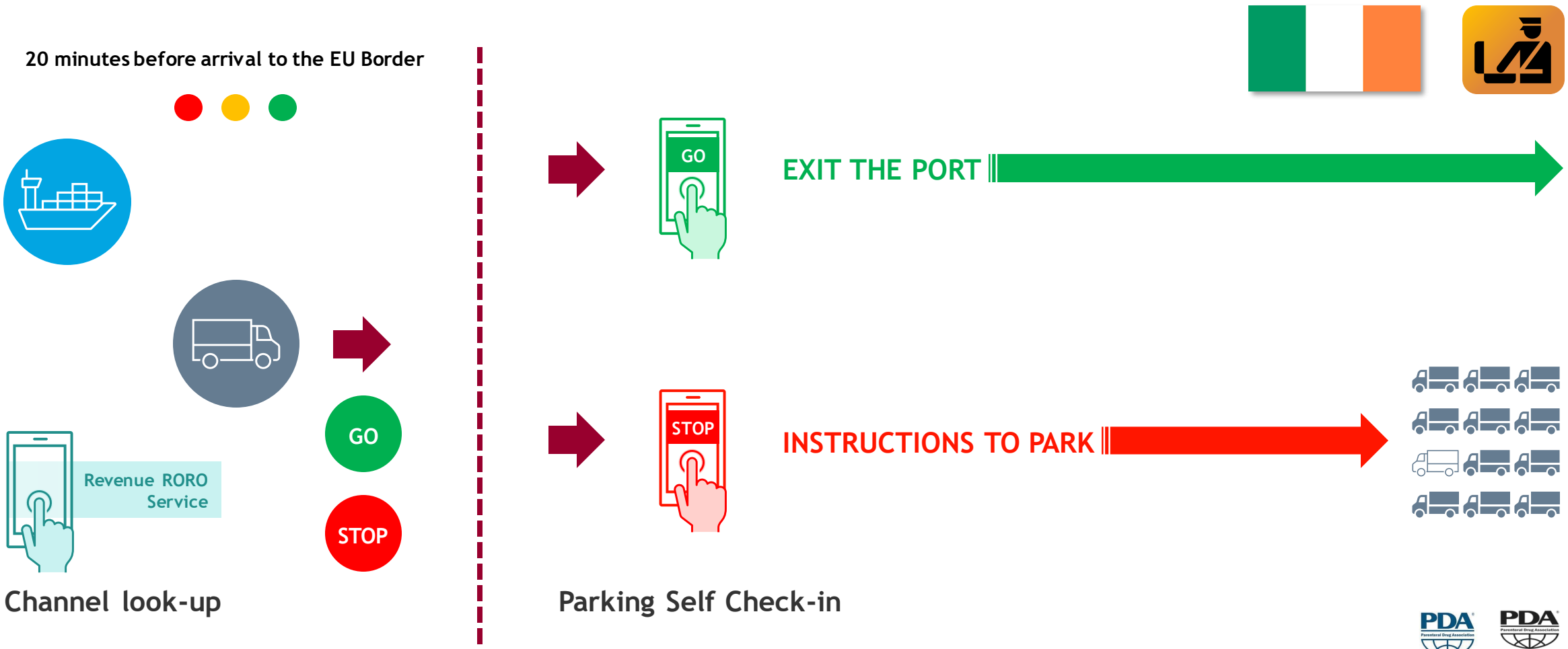
The new reality

Irish Import Requirements (RoRo Example) - Part 2



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THE NEW REALITY

House of Compliance

The new reality

House of Compliance

COMPLIANT DECLARATION PROCESS

POST DECLARATION REVIEWS

IMPORTER/EXPORTER ID

VALUATION

CLASSIFICATION

ORIGIN

GROSS/NET WEIGHTS

SPECIAL MEASURES

DOCUMENTATION/INCOTERMS AND PREPAREDNESS

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PDA Ireland Chapter

PDA United Kingdom Chapter

The new reality

Foundation

DOCUMENTATION/INCOTERMS AND PREPAREDNESS – Requirements prior to declaration

- *EORI registration*
- *TAN registration for deferred payment*
- *VAT registration*
- *IncoTerm Name & Place to be known*
- *Customs Invoice to be reviewed against standard*
- *Transport Document (CMR, BOL, MAWB, HAWB) to be received*
- *Transport route with the Office of first entry known*
- *Other shipping documents (A.TR 1, EUR.1 Form A etc.) to be received – Copies at a minimum*

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PDA Ireland Chapter

PDA United Kingdom Chapter

The new reality

The Pillars

IMPORTER/ EXPORTER IDENTIFICATION - Requirements

- *EORI Reference*
- *VAT Number*
- *TAN Reference*
- *VAT Free Authorisation (if applicable)*

VALUATION - Requirements

- *Invoice Value & Currency*
- *Freight Value & Currency*
- *Applicable deductions*
- *Insurance Rate*
- *Valuation statement*

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PDA United Kingdom Chapter

The new reality

The Pillars

CLASSIFICATION - Requirements

- *TARIC Code (Commodity Code)*
- *Importer responsibility*
- *May be different to Export code on invoice*
- *License and Permit applicability*
- *Is Border Inspection Post (BIP) inspection required for CHED?*

ORIGIN - Requirements

- *Country of last substantial transformation*
- *Should be stated on invoice*
- *May be different to Dispatch country*

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The new reality

The Pillars

GROSS/NET WEIGHTS - Requirements

- *Total Gross Weight for Transport Document*
- *Net Weight from Invoice or Packing List*
- *Apportion Gross Weight against Net Weight*
- *For multiple lines, weights to be broken out per line*

SPECIAL MEASURES - Requirements

- *Are the goods (or some part of the shipment) subject to Preferential Origin, Quota, INNs or GAT?*
- *Are the goods part of a Custom Warehouse, End Use, Inward or Outward Processing Authorisation?*
- *Are the goods Returned Material?*

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The new reality

Post Declaration analysis

POST DECLARATION REVIEWS- Requirements

- *Periodic review of declared information against system driven*

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PDA United Kingdom Chapter

THE NEW REALITY

The challenges brought by the change

The new reality

The challenges brought by the change

- Ireland to UK Customs present requirements

Challenges on Time

- Administrative time required at departure
- Administrative time required at arrival
- Risk to Supply Chain depending on IncoTerm
- Fulfillment SLA's reached prior to Brexit at risk

Challenges on Cost

- Additional Costs on Import Duties
- Additional Administrative costs of Exports (possibly recouped through Invoice value)
- Additional Administrative costs of Imports (usually dead cost to Importer)

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THE NEW REALITY

Focus on Pharmaceuticals & Medical Device

The new reality

Focus on Pharmaceuticals & Medical Device industry

Value of Pharmaceutical & Medical Device to Irish Export market

Exports of Pharmaceuticals & Medical Device			
Month	Total Exports %	€MM	Year on Year Increase
June	37%	6,401	14%
May	39%	7,072	63%
April	41%	7,164	58%
March	46%	9,214	63%

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The new reality

Focus on Pharmaceuticals & Medical Device industry

Areas contributing to Customs complexity

- Centrally managed Master Data
- High value import components
- Widespread use of Transfer Pricing
- Valuation of non-Commercial materials (clinical trials etc)
- Multi-origin components contributing to Preferential Origin calculation
- Multi-site manufacturing
- Centralised services
- Registration of import chemicals on REACH

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THE NEW REALITY

Valuation & Transfer Pricing

The new reality

Customs Valuation

Customs Valuation is used to determine the value of goods when entered into various customs procedures such as:

- Import
- Export
- Warehousing
- Inward processing

The customs value is essential to determine the correct amount of any customs duty to be paid on imported goods.

There are six types of **Customs Valuation Methods** based on hierarchy and these are:

1. Transaction Value Method
2. Identical Goods Method
3. Similar Goods Method
4. Deductive Method
5. Computed Method
6. Residual Valuation Method

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The new reality

Transfer Pricing

What is Transfer Pricing?
Transfer pricing refers to the pricing set between related parties when transacting with each other. As the parties are related, the pricing is 'controlled' and, in absence of transfer pricing rules, could be manipulated by companies to shift profits and taxing rights between jurisdictions. It concerns the pricing of goods, services, financial instruments, licences, and other intercompany arrangements.

Ireland's Transfer Pricing legislation, like most other countries, follows the OECD's transfer pricing guidelines which is based on the 'Arm's length principal'. This means, in general terms, that transactions between related parties must be priced at arm's length, as if they were carried out between unrelated parties.

Why is Transfer Pricing used?
Transfer pricing rules can be complex, and there could be multiple methods to determine an arm's length price for a transaction which may arrive at differing results. Companies may use Transfer Pricing to optimise the overall direct tax burden in a group by situating their value-adding assets and activities in low-tax countries. For Pharmaceuticals and Medical Device companies, this can mean holding the Intellectual Property rights of a product in a low Direct Tax country.

The new reality

Customs Valuation & Transfer Pricing – Two sides of the same coin

Direct taxation and Customs valuation tax authorities can have very different views on the issue of Intercompany Pricing

- Direct Taxation Authorities may view that costs borne by the domestic buyer should be relatively low, ensuring profits are not diverted to preferential tax regimes resulting in the underpayment of Direct taxes domestically

- Customs Authorities may view that customs valuation should be reasonably high in order to ensure that the value of the good imported is not lower than the cost to produce & supply and that a higher dutiable base is calculated upon import

It is therefore vital that when Transaction Pricing is set, there is a Customs view in the discussion.

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THE NEW REALITY

Northern Ireland

The new reality

Northern Ireland - General points on moving goods

- Avoid hard border on the Island of Ireland
- Protect The Good Friday Agreement
- Northern Ireland will remain part of UK customs territory
- Also aligns with EU on specific trade regulations.
- No new checks or controls on goods crossing the border between the two parts of Ireland.
- Northern Ireland continues to enforce the EU's customs code at its ports.
- VAT: NI applies the EU's VAT rules, which will not apply in GB
- Customs Declarations in Northern Ireland are submitted using the Trader Support Service (TSS) system
- New checks and processes for goods moving between Northern Ireland and other parts of the UK

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The new reality

Focus on Exports - Moving goods from NI to GB via ROI

All goods moving from NI to GB via Ireland will require declarations, as they are moving through the EU to arrive in the UK.

There is a wide range of controlled and agri-food products that require specific licences or certificates to be obtained, as well as checks to be completed when leaving the EU.

You will need to follow the process for importing goods into the UK from the EU (unless you are using Transit). However, you will not have to pay UK import duties on qualifying NI goods.

Moving goods from NI to GB via Ireland under Transit will also require additional documentation.

The new reality

Focus on Exports - Moving goods from NI to GB directly

If you move qualifying Northern Ireland goods directly from Northern Ireland to the rest of the UK there will be no changes and no new customs processes for almost all traders, with some very limited exceptions.

For example, goods falling within the very limited number of procedures relating to specific international obligations binding on the UK and the EU - such as obligations on the movement of endangered species.

That means, for almost all traders, when your goods leave Northern Ireland for Great Britain (England, Scotland and Wales), there'll be:

- no export declaration
- no exit summary declaration
- no import declaration on arrival in Great Britain
- no customs duties to pay
- no VAT to pay at point of arrival
- no changes to how your goods arrive at ports in Great Britain

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THE NEW REALITY

Solutions and Optimisations Management

The new reality

Solutions & Optimisations Available

- Available solutions and Authorisations to address Brexit Challenges

Duty Impact Measures

- Customs Warehousing
- Inward Processing
- Outward Processing
- Autonomous Tariff Suspension
- Preferential Origin (FTA)

Time & Compliance Optimisations

- AEO (Authorised Economic Operator) Trusted Trader Status
- Import Simplified
- Export Simplified *Available in 2023
- EIDR (Entry Into the Declarant's Records)
- Centralised Clearance *Available in 2023

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The new reality

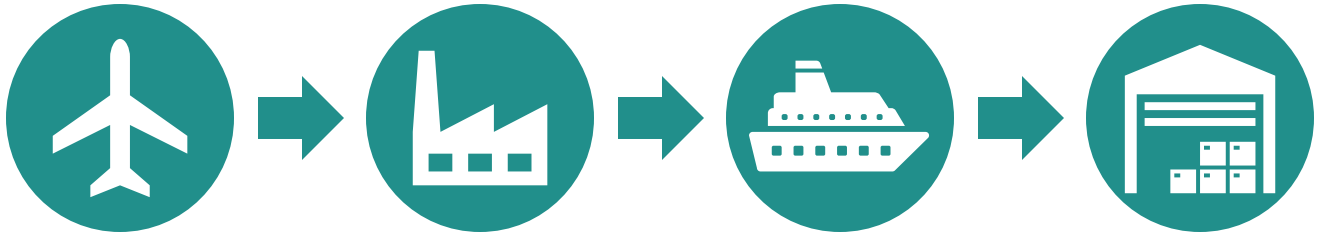
The solutions overview – Duty Impact

Inward Processing

- ✓ No duties or VAT upon arrival
- ✓ Save based on Finished Good rate
- ✓ Save based on Re-Export
- ✓ Can account for scrap

Customs Warehousing

- ✓ No duties or VAT upon arrival
- ✓ No time restrictions
- ✓ Versatile in use case
- ✓ Can be a 3rd party holder



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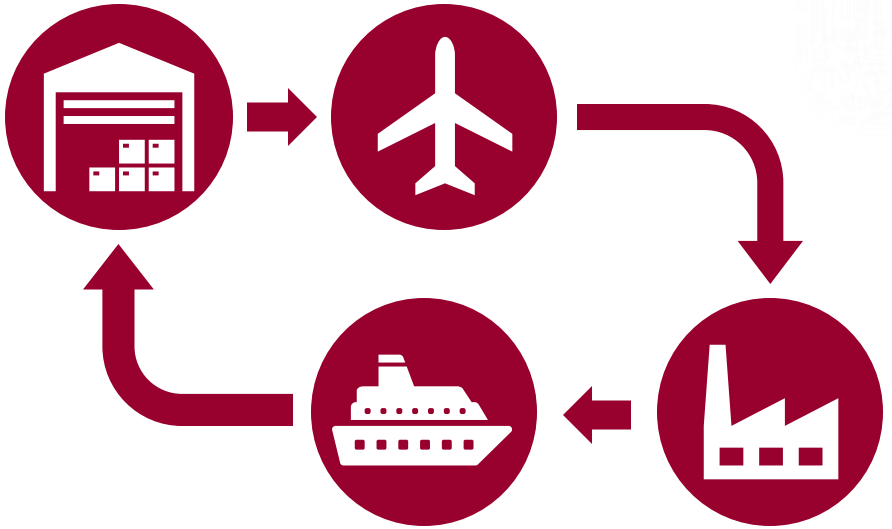
The new reality

The solutions overview – Duty Impact

Outward Processing

- ✓ Reduced duties or VAT upon arrival
- ✓ Value of exported material retained at import
- ✓ Can have multiple Operators around EU
- ✓ Can be a 3rd party holder



Autonomous Tariff Suspension

- ✓ Subject to scarcity of EU supply
- ✓ Specific to Taric Code
- ✓ No duties upon arrival
- ✓ Valid for up to 5 years

Preferential Origin

- ✓ Reduced or No duties upon arrival
- ✓ Can be based on Importer's Knowledge
- ✓ Can qualify for Exports (Rules of Origin & costed BOM)

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The new reality

Time & Compliance Optimisations overview

AEO - Benefits

- ✓ Recognition of Compliance
- ✓ Controls Risk Mitigation
- ✓ Priority Treatment
- ✓ Access to Bonds and Waivers
- ✓ Access to Optimisations

EIDR - Benefits

- ✓ No formal presentation required to Customs upon arrival
- ✓ Used with Processing procedure (IP)
- ✓ Used with Returned Goods Relief (RGR) goods
- ✓ Supplemental Declaration choice
- ✓ Budget & Optimise Duty Spend

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

European Commission

The new reality

Time & Compliance Optimisations overview

Simplified Procedures - Benefits

- ✓ Minimal presentation required to Customs upon arrival
- ✓ Greater range of materials allowable
- ✓ AEO not a pre-requisite
- ✓ Supplemental Declaration choice
- ✓ Budget & Optimise Duty Spend

Centralised Clearance (previously called SASP)- Benefits

- ✓ Declare all EU arrivals in one member state (Supervising Member State)
- ✓ Centralised accounting and payment of Customs Duties for all sites
- ✓ Account for statistical requirements of arrival country
- ✓ Principally suitable for manufacturers or redistributors in multiple EU countries
- ✓ Budget & Optimise Duty Spend

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

European Commission

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THE NEW REALITY

Management of Customs Optimisations & Processes

The new reality

The management of the solutions and optimisations

Overview of document management requirements

- ✓ Arrivals records
- ✓ Stock on hand reports
- ✓ Movement reports
- ✓ Records Entry
- ✓ Customs Declarations
- ✓ Process management procedure

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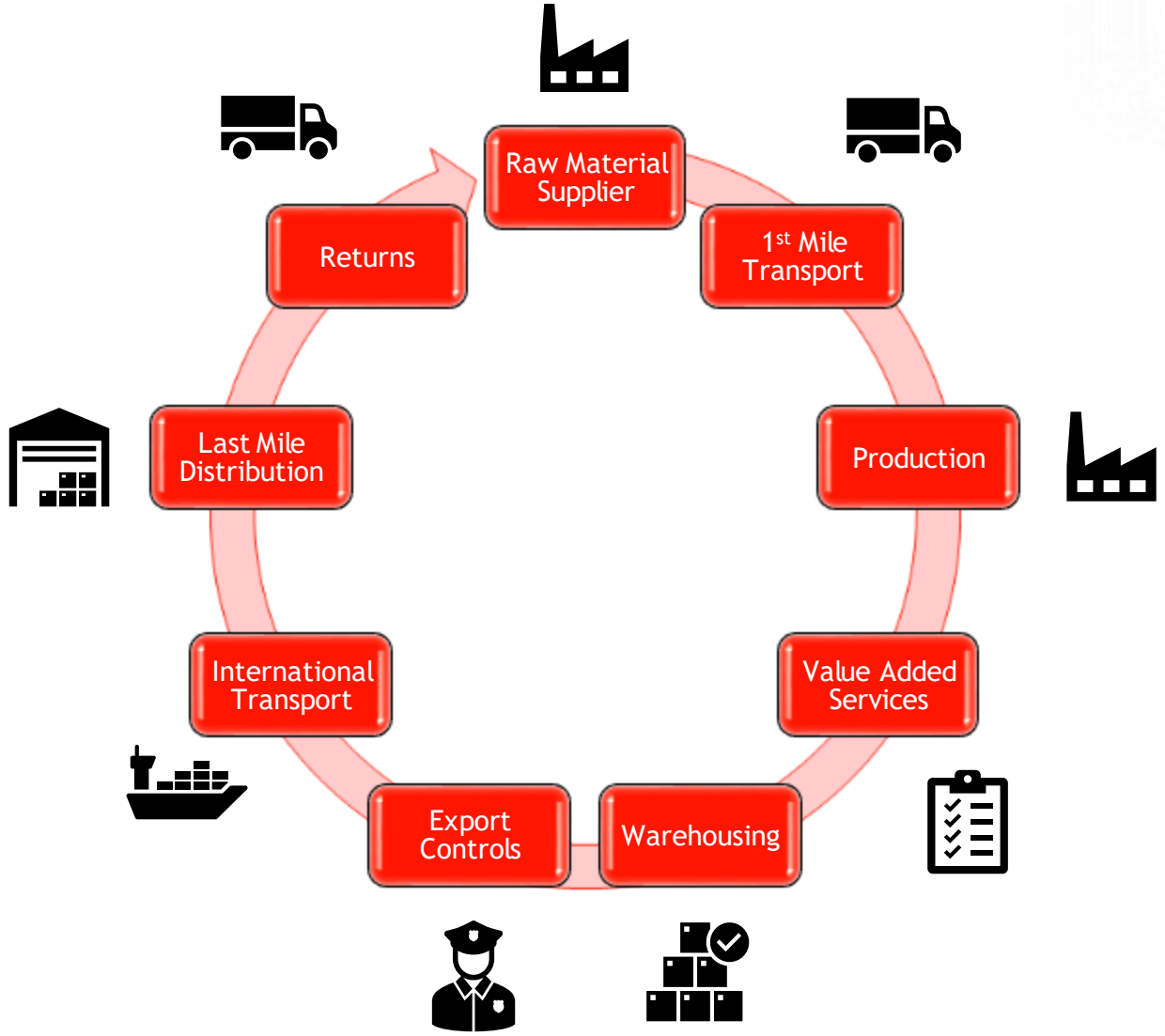
THE NEW REALITY

Strategic Partnerships

The new reality

Strategic Partnerships - It takes many hands to deliver your success



The new reality

BDO Ireland - Your strategic International Trade partner

- BDO Ireland – Customs Service Offering

Customs & International Trade

- Economic Procedure
- Simplified Process
- Centralised Clearances
- AEO
- Autonomous Tariff Suspension submission
- Preferential Origin evaluation & management
- Irish, UK & Northern Irish Customs Declarations & transactions - Automation
- Common Health Entry Documents (CHED)
- Export Licensing

Other BDO Services

- VAT Consultancy
- Tax Consultancy
- R&D Credit Consultancy
- Transfer Price Consultancy
- Audit Services
- Multiple Advisory Services
- Business Consultancy
- Corporate Secretarial
- M&A and Transaction Services
- Fundraising Advice

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Smart business advisors

Impact of Brexit on the Pharma Sector – Legal Perspectives

Presenter: Bridget Clinton - Associate, Arthur Cox LLP

Bridget Clinton is an Associate in Arthur Cox LLP's Regulated Markets Group with specialist expertise in life sciences regulation. Bridget advises clients in the pharmaceutical, biotech, medical device, cosmetics and agri-food sectors in relation to the entire product lifecycle, including clinical research and market access, promotional and compliance issues, pricing and reimbursement and transactional matters.

ARTHUR COX

Impact of Brexit on the Pharma sector

Legal perspectives

Bridget Clinton
Associate
Regulated Markets
Arthur Cox LLP

23 September 2022

AC#43893143.2

PDA Ireland Chapter
PDA United Kingdom Chapter

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01

IMPACT OF BREXIT ON PHARMA TRADE

Brexit?

Brexit Timeline

1 January 1973	UK joins the EU along with Denmark and Ireland
Good Friday 1998	The Belfast Agreement reached – physical border posts and checks removed
23 June 2016	UK votes to leave the EU by a majority of 51.9% to 48.1%
29 March 2017	UK triggers Article 50 of the Lisbon Treaty, starting the exit process
Late 2019	Withdrawal Agreement and "Backstop" arrangement concludes late 2019
Rejection of Backstop	UK Parliament rejects the "Backstop" and it is replaced with the Northern Ireland Protocol
31 January 2020	UK ceases to be an EU member on 31 January 2020 with Transition Period ending on 31 December 2020
1 May 2021	EU-UK Trade and Cooperation Agreement enters into force
2022	Ongoing political discussions around NI Protocol and UK's proposed Protocol Bill

Northern Ireland Protocol

Ideally avoids a trade/physical border on the island of Ireland:

1. Control and monitoring of goods entering NI from UK
2. Goods can then flow into Ireland/EU single market
3. NI continues to apply EU single market rules in some areas while remaining in the UK customs union

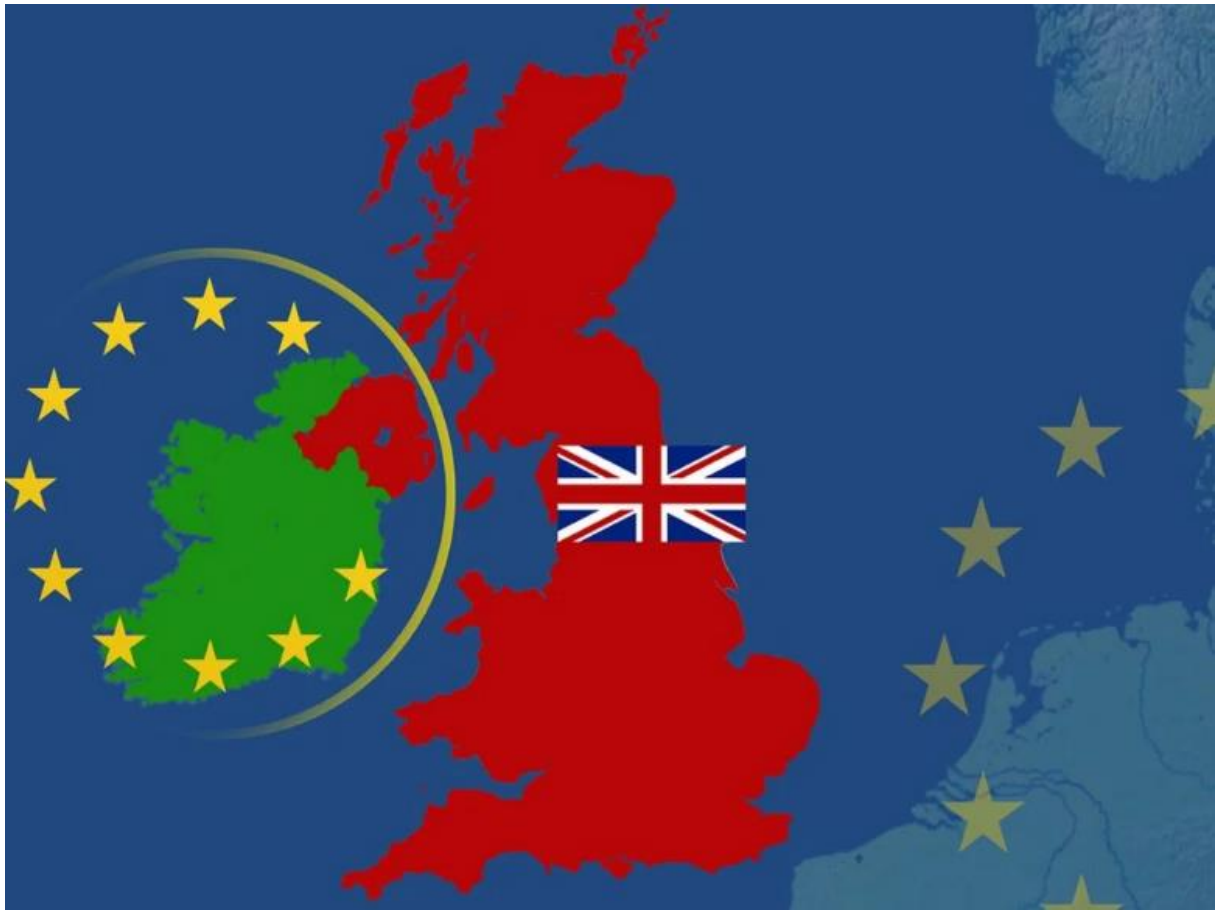


Image credit: Beeldbewerking/Getty images

EU-UK Trade and Cooperation Agreement

Pillars

- Free Trade Agreement
- Economic, social and environmental cooperation
- Framework for citizens security
- Governance Framework

Components

- General and institutional arrangements
- Economic arrangements – trade, goods and services
- Law enforcement and judicial cooperation
- Dispute settlement, values and safeguards

EU-UK Trade and Cooperation Agreement

Core Trade Elements:

- **Goods**
  - No tariffs or quotas if originate in UK or EU
  - Rules of origin – products assembled in UK/EU from materials sourced elsewhere fall outside scope of non-tariff
  - Customs formalities – export and import declarations
  - Product conformity assessments – no cross recognition

- **Services**
  - Non-discrimination, local presence, most favoured nation, visa free entry

02

IMPACT OF BREXIT ON PHARMA TRADE

Legal Implications for Pharma

Legal Implications for Pharma

TCA does not contain a Mutual Recognition Agreement so distinct regulatory regimes will govern medicines in the UK and EU

Key Points:

1. As the UK is a third country medicines to be tested and certified on import
2. UK will accept batch testing and QP certs for two years, but the EU will not
3. Mutual recognition of GMP inspections and certs

Legal Implications for Pharma

Annex TBT-2:

- Mutual recognition of GMP inspections and documents
- Confidential exchange of GMP documents upon request within 30 days
- Safeguards on GMP inspections and reciprocal notifications
- 60 days prior notice on changes to GMP
- Right of suspension of mutual recognition where reasonable
- Regulatory/GMP cooperation

03

POST BREXIT 2021

Establishing an EU Regulatory Presence

Establishing an EU Regulatory Presence

Incorporating an Irish Company:

- Straightforward and inexpensive 2 to 3 week process
- Ongoing company law compliance obligations
- Directors or bond, place of business, staff?
- Transfer or apply for MA, MIA, WDA for new company
- Ongoing Regulatory requirements i.e. MA Holder:
  - QP resident in EEA
  - Availability of Pharmacovigilance master file, risk management system etc.

04

POST BREXIT 2021

Implications for Contracts

Implications for Contracts

Consider intragroup and third party supply of products/raw materials/services, logistics, distributors, agents, commissionaire, contract and toll manufacturing, terms and conditions of supply etc.:

Review:

- Pitfalls: "Full title guarantee", administration, first class post, Contracts (Rights of Third Parties) 1999
- Choice of law and jurisdiction
- Territorial scope
- Impact of legal/tax/regulatory changes on costs/pricing
- Force majeure

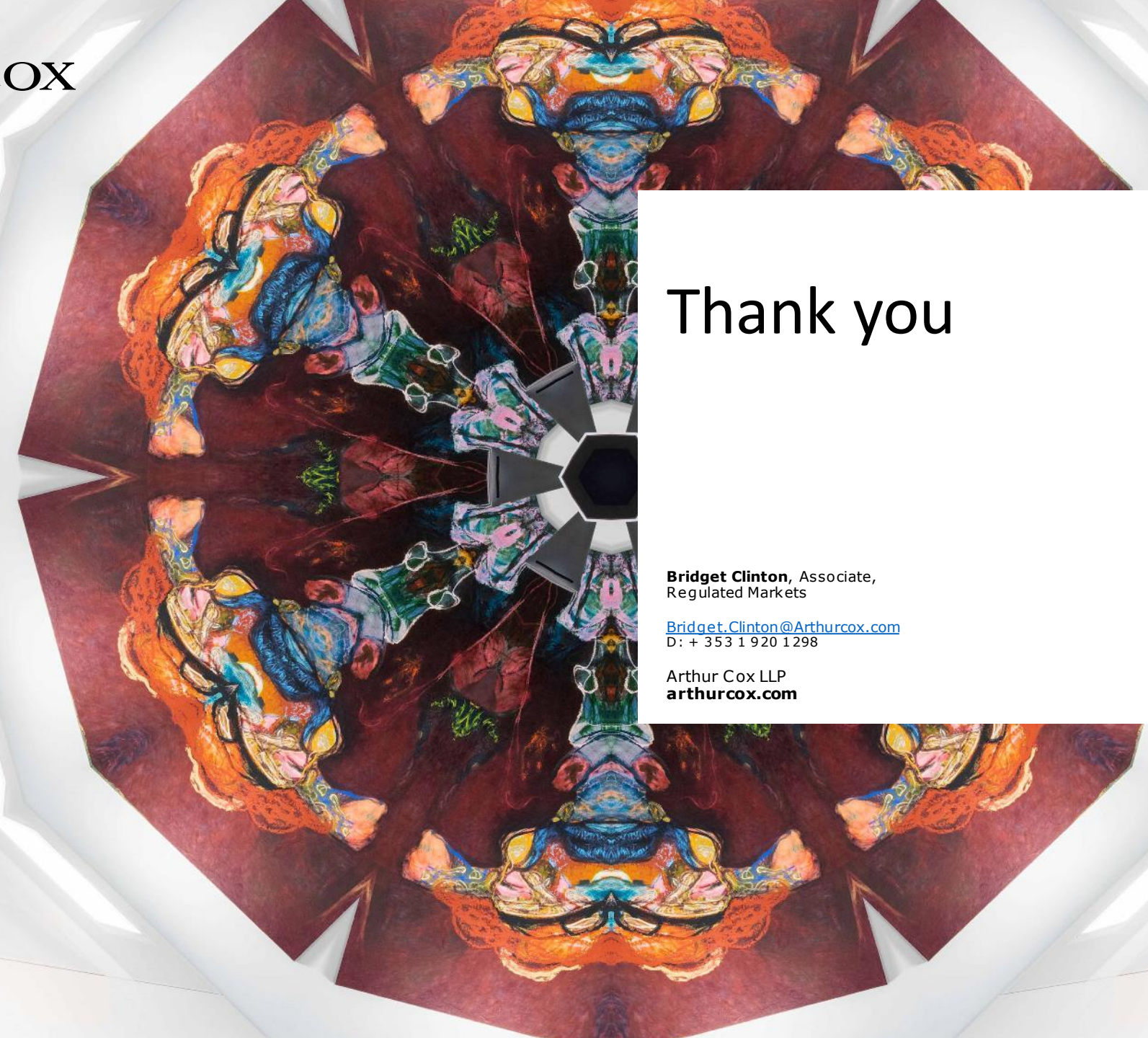
Implications for Contracts

Gradual divergence of UK law from Irish/EU over a period of time

Brexit proofing contracts:

1. Change control management
2. Management of regulatory change
3. Price adjustment mechanisms
4. Rights and consequences of termination/MAC clauses
5. Force majeure

ARTHUR COX



Thank you

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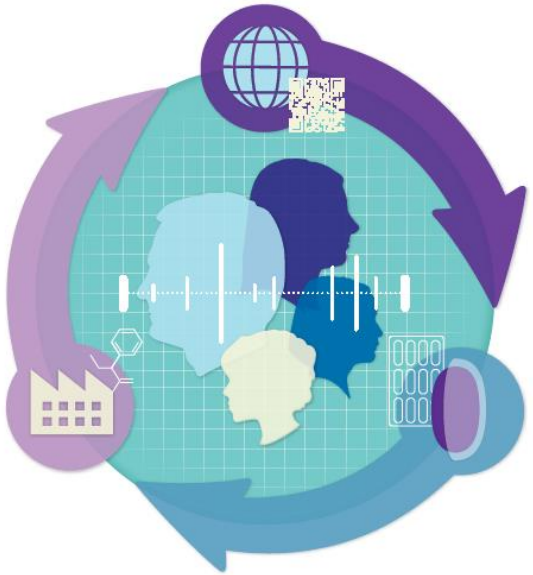
Pharma Industry Perspective

Presenter: Ann McGee on behalf of Lynne Thompson – Quality Director, Catalent Pharma Solutions

Lynne is currently employed by Catalent Pharma Solutions as the Director of Quality based at the Bathgate site in the UK. She has over 25 years' experience working within the highly regulated pharmaceutical industry. Lynne has a strong knowledge of Quality Management Systems and cGMP. She leads a team of Quality Professionals who ensure compliance with EU/FDA GMP for the manufacture and testing of Clinical Trial Materials.



Catalent Brexit Strategy

CATALENT CLINICAL DEVELOPMENT SUPPLY

LYNNE THOMSON, QUALITY DIRECTOR
SEPTEMBER 2022

DEVELOPMENT DELIVERY SUPPLY

more products. better treatments. reliably supplied.™

The Bathgate Site Capabilities

Catalent, Clinical Development Supply BATHGATE, UNITED KINGDOM

UK Clinical Development Supply Facility located near Edinburgh, Scotland. Opened in 1997 the site has extensive expertise in cold chain clinical packaging and logistics

141,000+ sq. ft. & 300+ employees

Growing capabilities in 2021/22 include,
- Niche Commercial Packaging
- Controlled Drug
- Cryogenics Storage & Distribution
- Over-encapsulation
- Centralised booklet design

QUALITY OVERSIGHT:
- GMP and GDP
- MHRA Inspected & licensed

Packaging
- Primary packaging (blister/bottle)
- High speed bottling lines
- Secondary packaging & clinical labeling
- Syringe & vial labeling
- Carding and walleting
- Cold room secondary packaging
- -20 ℃ secondary packaging
- FastChain® packaging model

Distribution
- Controlled room temperature (15-25℃)
- Refrigerated (2-8℃)
- Frozen (-15 to -25℃)
- Deep Frozen (-40C to -80℃)
- Dry Ice Handling

Execution & Services
- QP release services
- End-to-end project management
- Clinical supply management/ forecasting
- Clinical returns & destruction
- Extended Outsourcing

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Catalent's Brexit Supply Chain Strategy

Catalent Bathgate have been impacted by 3 Regulatory changes associated with Brexit since January 2021

Impact Number 1

On 1st Jan 2021, the UK left the EU and became a third country

Impact Number 2

On 01 Jan 2022 the UK Oversight Process came into force and required a UK MIA for all Clients Clinical trials to be conducted in the UK

Impact Number 3

Annex 21 was introduced on 21st Aug 2022, this included IMP's and required a physical site of import named on releasing site MIA IMP License

Impact number 1 – Hard Brexit January 2021

With the Brexit transition period set to expire on 31st Dec 2020, Catalent CSS has implemented risk mitigation strategies to ensure that its UK and EU facilities can remain in supply chains for EU studies, and continue to afford customers optimal access, speed and cost benefits

- The UK officially left the EU on 31st Jan 2020 triggering the transition period. The UK Government has confirmed that this will not be extended beyond the expiry date of 31st Dec 2020.
- On 1st Jan 2021, the UK and the EU will leave the transition period with either a newly negotiated relationship, or a hard Brexit*.
- **Catalent has established additional capabilities and capacity across its European footprint to mitigate any trade, regulatory or other project delivery challenges presented regardless of Brexit outcome.**
- On a project-by-project basis, Catalent CSS continues to evaluate and use both its UK and EU facilities in supply chains for EU studies, to afford customers optimal access, speed and cost benefits.

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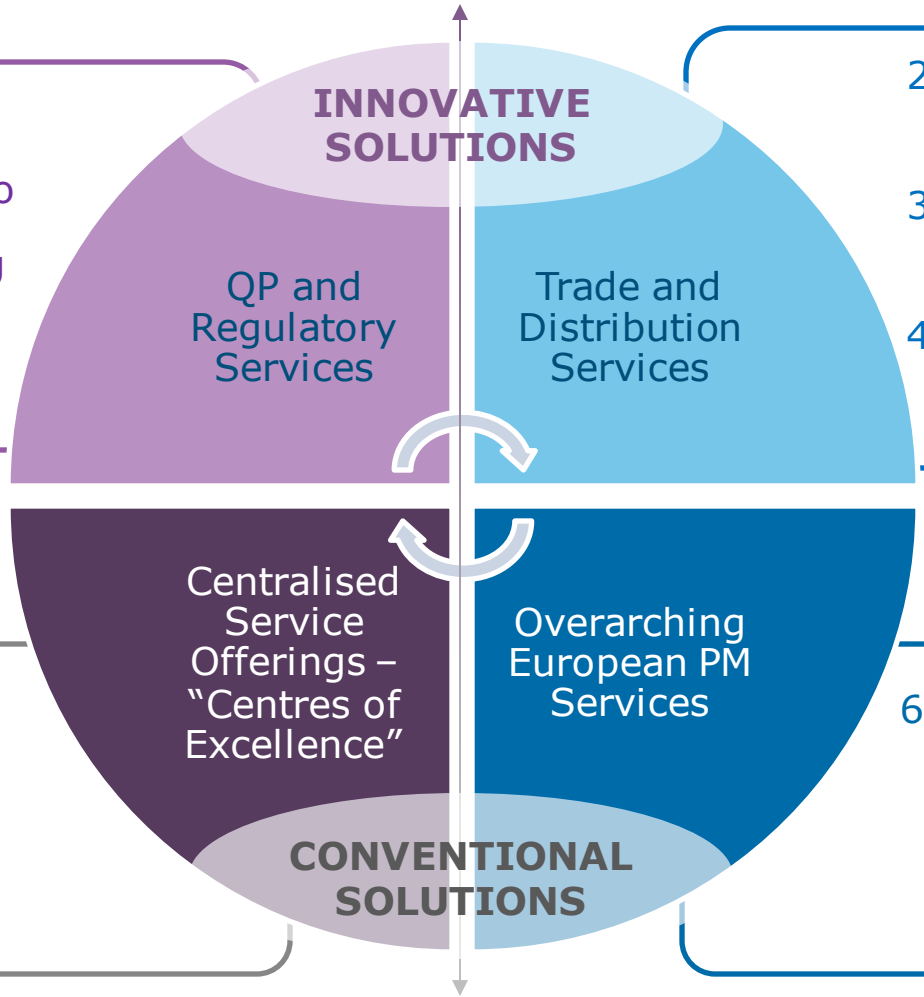
Innovative and Flexible Solutions Built on a Strong Foundation to Reliably Supply Patients Through Brexit and Beyond

1. Catalent's UK QPs on an EU licence to support release of IMP from UK to EU



2. IoR & VAT reclamation service
3. AEO accreditation for all European Catalent CSS Sites
4. Enhanced customs processes

5. Centralised activities to support supply chain continuity generally, and throughout Brexit

6. Harmonisation of PM structure, services and systems across Europe

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Making a UK Option Future-Proof with Cross-Docking in a Hard Brexit

PROCESS

Catalent UK	UK/EU Border	EU Clinical Sites	Patients

Packaging

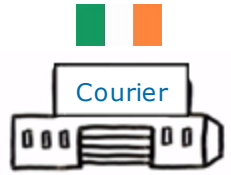
Distribution

Shipments to the rest of the world

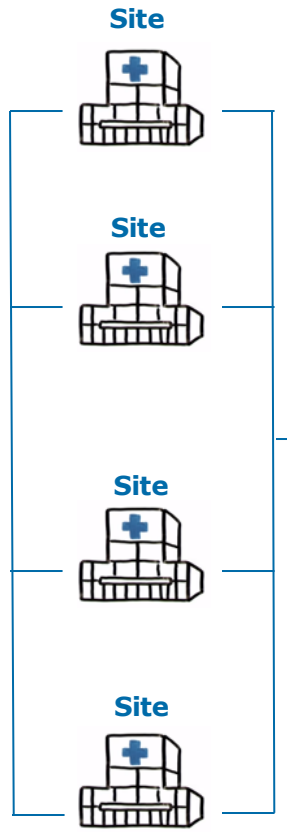
Consolidated shipment to EU cross-dock facility in RoI

Risk Mitigation/ Benefits

- ✓ No change to distribution strategy
- ✓ Customers can benefit from RoI tax exceptions and reclaim VAT in a simple & efficient manner, thus reducing claim workload



- ✓ Catalent continues to support QP certification of materials for release into the EU, negating the need to introduce a new QP to the supply chain
- ✓ Continuity for customers who will retain existing QP and QP knowledge of the supply chain



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Summary of impact number 1 – Hard Brexit January 2021

- **Delays were observed with the HMRC processes during January and February 2021 and 365 patients were delayed getting their medication**
- **Clients moved their work to mainland EU and Catalent announced the consolidation of the 2 UK sites to 1 UK site**
- **EU shipments take 1 more day to ship via cross dock route and have cost implications to the clients**

Impact number 2 - Updated MHRA Guidance: Importing IMPs from Countries on a List to Great Britain (GB)

On 7th July 2021, the Medicines and Healthcare Products Regulatory Agency (MHRA) issued updated guidance on importing Investigational Medicinal Products (IMP) from countries on a list to GB[1].

- Sponsors of UK clinical trials using IMPs imported into GB from countries on an 'approved country for import' list (initially, all EU and EEA countries) will require a UK Manufacturing and Import Authorisation (MIA(IMP)) holder to put in place an assurance system to check that these IMPs have been certified by a Qualified Person (QP) in a listed country, before release to the trial.
- This assurance system must be overseen by a QP; however, the IMPs would not require recertification.
- A sponsor may perform verification of QP certification in a listed country themselves if they are the holder of a UK MIA(IMP). Alternatively, they may outsource this verification to a third party who holds a UK MIA(IMP).
- There is a one-year transition period from 1 January 2021 to implement this guidance.

1. Importing Investigational Medicinal Products (IMP) from countries on a list to Great Britain: https://www.gov.uk/government/publications/importing-investigational-medicinal-products-into-great-britain-from-approved-countries/importing-investigational-medicinal-products-imp-from-countries-on-a-list-to-great-britain

Updated MHRA Guidance: Oversight Process and Catalent's Proposed Response

There are two routes for IMPs to be received into GB from a listed country for use in GB clinical trials following QP certification by the listed country MIA(IMP) holder:

Route 1: Direct to the GB clinical trial site	Route 2: Via a GB storage and distribution 'hub'

Both routes require the oversight of a UK MIA(IMP) holder and QP, with systems in place to ensure that:

- ✓ IMPs are not made available for use in GB clinical trial sites until appropriate QP certification in a listed country has been verified by the QP named on the UK MIA(IMP).
- ✓ IMPs are only shipped to appropriate GB trial sites detailed within the UK trial application.
- ✓ Up-to-date information and documentation relating to the clinical trial and associated Product Specification File are made available by the sponsor to the QP named on the UK MIA(IMP).
- ✓ The clinical trial is authorised by the MHRA before IMP is made available to the investigator.

Catalent as the holder of an MIA(IMP) with UK QPs named on its license can be used as a depot for the import of IMP for GB clinical trials from a listed country.

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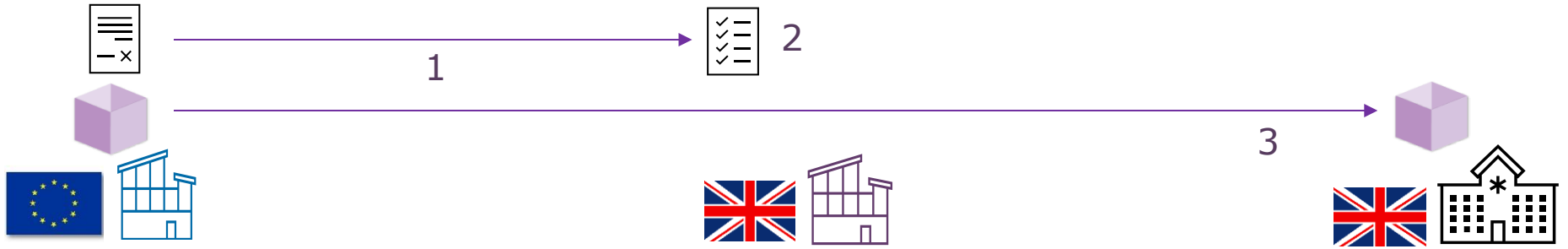
Processes for Shipping IMP from EU to GB Following 1st January 2022

Prerequisites in place prior to 1st shipment

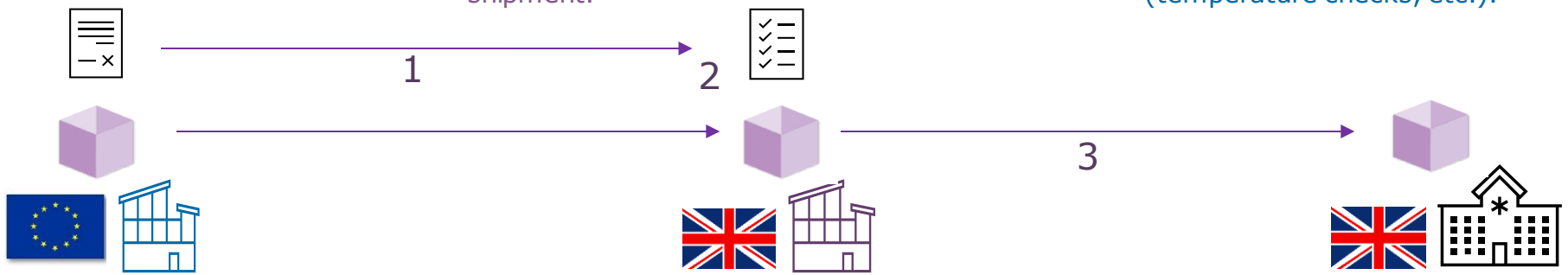
Route 1: Direct to the GB clinical trial site (requires sponsor to be IoR)



1. EU QP performs QP certification and supplies appropriate documentation to the UK QP prior to shipment of clinical trial material.
2. Sponsor/third party UK QP[1] performs UK QP oversight verification for regulatory importation into GB.
3. **EU facility** ships clinical trial material directly to GB clinical sites – standard receipt and release processes continue as normal (temperature checks, etc.).

Route 2: Via a GB storage & distribution 'hub' (Catalent-preferred route)

1. EU QP performs QP certification and supplies appropriate documentation to the UK QP prior to shipment of clinical trial material.
2. Catalent UK QP[1] performs UK QP oversight verification for regulatory importation into the GB[2] and supplies are **stored** ready for onward shipment.
3. **UK facility** ships clinical trial material directly to GB clinical sites – standard receipt and release processes continue as normal (temperature checks, etc.).



1. The UK QP must be named on the UK MIA(IMP)
2. Certification by a Catalent QP does not mean that Catalent will act as an importer for customs purposes unless otherwise agreed in advance.

Summary of impact number 2 – UK Oversight Process Jan 2022

- **Clients either split their stock between EU & UK Depot or ship directly from EU after UK oversight check has been performed which is an additional step in the process**

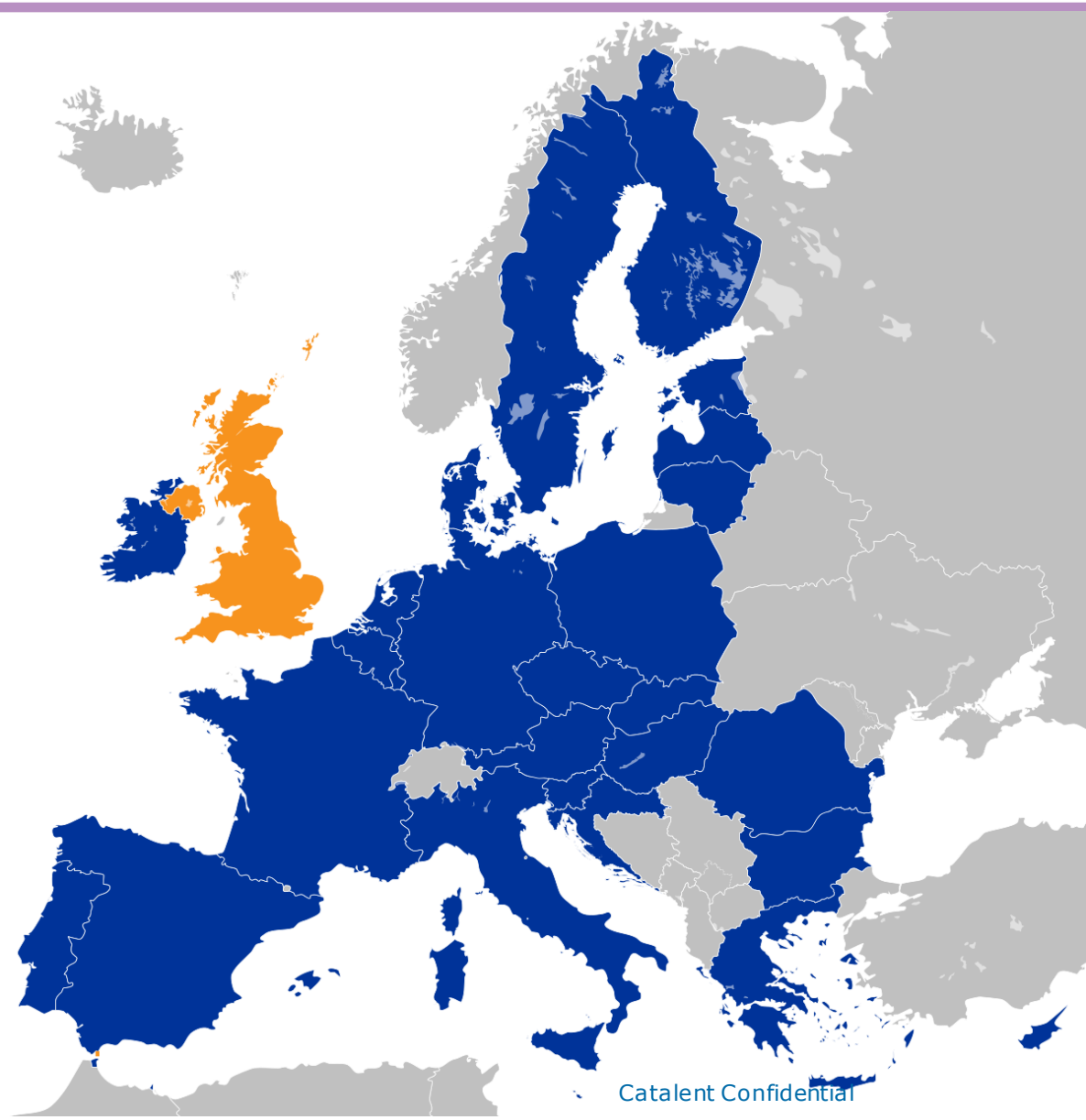
Impact number 3 – Annex 21 August 2022

- On the 16th February 2022, the **European Commission published new requirements for importing IMPs into the EU/EEA** in Annex 21 to the EU-GMP Guidelines[1]
- **Annex 21 became effective** six months after its publication, **on August 21, 2022**.
- **Catalent's clinical supply division has made changes to the way it imports IMPs to the EU/EEA from the UK (GB) to comply with the new requirements.**

1. https://health.ec.europa.eu/latest-updates/eudralex-volume-4-eu-guidelines-good-manufacturing-practice-medicinal-products-human-and-veterinary-2022-02-21_en

Updated EU-GMP Guidelines for Importing IMPs to the EU/EEA

- From Aug 21, 2022, IMPs that are imported to the EU/EEA from the UK (GB) need to comply with Annex 21 of the EU-GMP Guidelines as follows:
  - IMPs now need a **physical site of importation** in the EU/EEA;
  - EU/EEA **QP certification sites must now have a physical site of importation** listed on the MIA (IMP); and
  - **QP certification** of IMP can only take place **after physical importation and customs clearance** into an EU/EEA state.



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How Catalent Supports Clients to Comply with Annex 21 from August 21, 2022

Catalent's Annex 21 Solution	• Catalent's EU QP certification site (MIAS) has an **EU physical site of importation** named on its MIA (IMP). • Catalent's transportation route **moves IMP shipments directly from the UK (GB)** to an **EU pass-through depot (Catalent Schorndorf)**, which is the **named EU physical site of importation** on the MIA (IMP) license of its EU QP certification site (MIAS).
Action Required by Clients Adopting Solution	✓ **Clients must ensure that Catalent's EU QP certification site is included on submissions to comply with Annex 21.**

PDA Parenteral Drug Association Ireland Chapter

PDA Parenteral Drug Association United Kingdom Chapter

Key Points of Annex 21

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- The term **importation** was clarified as the action of **physically bringing a medicinal product** from outside the territory of the EU/EEA into the community.
- This applies to medicinal products for human & veterinary use, and **IMPs are now referenced** in the guidance.
- **Qualified Person (QP) certification or confirmation**, as appropriate, of a batch of a medicinal product takes place **only after physical importation and customs clearance** into the territory of an EU/EEA state.

Important Site Requirements when Importing IMPs to the EU/EEA

Important Site Requirements

- Two **sites** are considered to have **specific importation responsibilities** in relation to a **medicinal product**, a bulk product, or an intermediate product, which are:
  a. The site of **physical importation;** and
  b. The site of **QP certification** of imported medicinal products or QP confirmation for bulk or intermediate products undergoing further processing, as appropriate.
- The above **importation responsibilities** must be carried out by entities **appropriately authorized under a MIA (IMP).**

Summary of impact number 3 – Annex 21 August 2022

- **Catalent had to change the transport route to import IMP's to the EU from Dublin to Schorndorf Germany**
- **EU shipments have increased turnaround time from 2 days to 10 days and have cost implications for the clients**

Questions?

QUESTIONS?

PDA Ireland Chapter

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