

WALKER  
MORRIS



# INTERNATIONAL TRADE

## Newsletter

SUMMER/AUTUMN 2021



## Welcome...

to the first edition of the quarterly newsletter from our International Trade team where we summarise key developments from the past few months.



Join us on 19 October 2021 for our webinar on '[Untangling the red tape of international trade](#)' as we unpick some of the regulatory hurdles of trading across borders and offer advice on how to overcome them.

Download your free copy of our latest report, Made for Trade by clicking [here](#).

### Import/export

To give businesses more time to adjust as they try to recover from the pandemic and manage ongoing disruptions to global supply chains, the government recently [announced](#) another shift in the timetable – in most cases by a further six months - for introducing full import controls on goods imported from the EU into Great Britain. As explained in our recent [Food & Drink update](#), the announcement is particularly relevant to the agri-food sector. Many of the controls are sanitary or phytosanitary and some were due to apply from 1 October 2021.

The UKCA product safety mark has been [delayed until 1 January 2023](#). All goods currently bearing the European CE mark can continue to be placed on the market in Great Britain until that date. A different date of 1 July 2023 applies in relation to medical devices.

We provided an [update](#) on the status of post-Brexit medical devices regulation. The Medicines and Healthcare products Regulatory Agency has since published a wide-ranging [consultation](#) on the future of medical devices regulation in the UK. The new regime is expected to apply from 1 July 2023 to align

with use of the UKCA mark. See this [overview page](#) for a summary of the proposals. They include a “unique, innovative, and ambitious framework” for regulating software and AI as medical devices, and strengthening the accountability of manufacturers, importers, and distributors. Importantly, it is said that a number of the proposals could bring greater alignment with requirements in the recently updated EU regulations and other international regimes, rather than bringing in higher regulatory burdens for those in the medical devices industry than they face elsewhere. The consultation closes on 25 November 2021.

The UK Intellectual Property Office [ran a consultation](#) on the UK’s future regime for the exhaustion of intellectual property rights which will underpin the UK’s system of parallel trade.

We took a look at [Freeports](#), their advantages for companies operating in the Infrastructure and Energy sectors and the practical benefits of operating in a Freeport Zone. Click [here](#) for more information on what Freeports are and how we can help.

## Supply chain

We considered and offered our practical advice on [sanctions risk](#) - another key feature of the supply chain landscape for businesses to get to grips with. Click [here](#) to find out more about our supply chain contract health check services.

The [Plastic Packaging Tax comes into effect from April 2022](#). Businesses should start to consider its impact in relation to their supply chain contracts.



## International data transfers

There was a collective sigh of relief as the EU [confirmed the UK’s data adequacy status](#), ensuring (for now) the continued free flow of personal data between the UK and European Economic Area.

As [part of its post-Brexit global data plans](#), the government is [consulting](#) until 19 November 2021 on wide-ranging reform of the UK’s data protection and e-privacy regimes. It wants to maintain high data protection standards without creating unnecessary barriers to responsible data use. The proposals include introducing a more flexible and risk-based accountability framework. The government believes it is perfectly possible and reasonable to expect the UK to maintain its adequacy status - whether our European friends share that view remains to be seen.

A new set of [EU standard contractual clauses \(SCCs\)](#) was adopted. The UK’s Information Commissioner’s Office has since [consulted](#) on its draft international data transfer agreement and guidance to replace the current SCCs for transferring personal data outside of the UK in the absence of relevant adequacy arrangements. The draft caters for a wider range of transfer scenarios to reflect the reality of today’s complex data sharing relationships and sets out additional obligations. A proposed addendum to model data transfer agreements from other jurisdictions provides a potential practical solution for businesses subject to more than one regime that might otherwise have to enter into two different sets of SCCs.

## Business immigration

[New guidance on right to work checks](#) came into effect on 1 July 2021 as the Brexit grace period for employers came to an end. Click [here](#) to visit our Business Immigration Hub.

The government recently [announced a temporary visa scheme](#) for overseas HGV drivers and poultry workers to work in the UK for three months to Christmas Eve, as businesses continue to grapple with supply chain issues.

## Dispute resolution

We considered the [threat of climate-related/green litigation](#), which has significant practical implications for parent companies and their foreign subsidiaries and through the supply chain.

Arbitration is the method of choice for resolving international commercial disputes. We [summarised](#) the key features of this alternative to court litigation and offered our practical advice to contracting parties. We also looked at [recent trends in international arbitration](#).

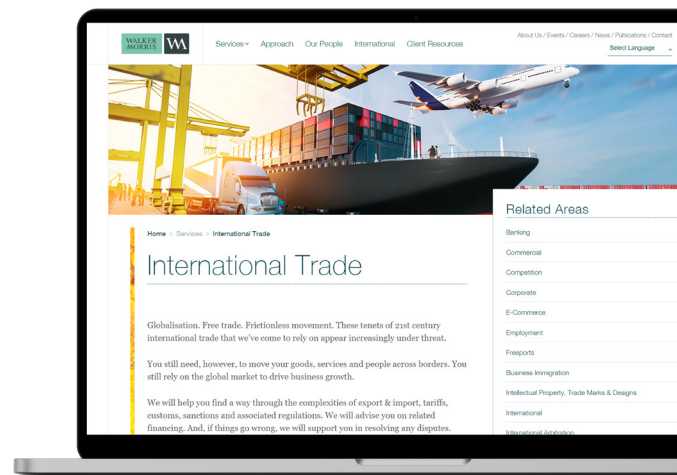
We published a [factsheet](#) on the enforcement of foreign judgments in England, setting out the different frameworks that apply post Brexit. No final decision has yet been made in Europe on the UK's accession to the Lugano Convention, which broadly replicates the old regime for jurisdiction and enforcement and which would simplify the process for enforcing European judgments in England and vice versa. While several countries have said they would welcome the UK's accession, others and the European Commission currently oppose it.

In a decision which will have significant practical implications in the UK and across Europe, the European Court of Justice [recently concluded](#) that the concept of 'sale of goods' in the EU's Commercial Agents Directive must be interpreted as meaning that it can cover the supply, in return for payment of a fee, of computer software to a customer by electronic means where that supply is accompanied by the grant of a perpetual licence to use that software. The Court of Appeal had previously held that software was not goods for the purposes of the UK's Commercial Agency Regulations and the Supreme Court made a referral to the ECJ.

## For more information

If you have questions about any of these developments and how they might apply to your business, or otherwise need advice or assistance on any aspect of trading internationally, please get in touch or speak to a member of our dedicated team below.

Visit our dedicated International Trade page today by clicking [www.walkermorris.co.uk/services/international-trade](http://www.walkermorris.co.uk/services/international-trade)



**Andrew Northage**

Partner & Head of International Trade

[andrew.northage@walkermorris.co.uk](mailto:andrew.northage@walkermorris.co.uk)



**Nick McQueen**

Partner

[nick.mcqueen@walkermorris.co.uk](mailto:nick.mcqueen@walkermorris.co.uk)



**Shabana Muneer**

Director

[shabana.muneer@walkermorris.co.uk](mailto:shabana.muneer@walkermorris.co.uk)



**Claire Burrows**

Director

[claire.burrows@walkermorris.co.uk](mailto:claire.burrows@walkermorris.co.uk)



**Sarah Williams**

Senior Associate

[sarah.williams@walkermorris.co.uk](mailto:sarah.williams@walkermorris.co.uk)