

Summary

Since the announcement that the UK would leave the EU, GAMBICA members have been diligent in ensuring their compliance with legislation to allow them to continue to do business in the UK, but the stance remains; that there is no appetite for regulatory divergence as this does not bring about any competitive advantage for the UK. In fact, it does the opposite.

GAMBICA's Flammable Atmospheres Group (FLAG) maintains the position that the UK should seek a mutual recognition agreement with the EU for compliance of equipment for use in potentially explosive (flammable) atmospheres.

Adding Barriers to Business in the UK

Products placed on the UK market that had previously been CE marked must now bear a UKCA mark to demonstrate compliance with UK legislation. GAMBICA members have been diligent in ensuring compliance with this legislation to enable the use of the UKCA mark and, therefore, continued UK market access. However, the introduction of the UKCA mark has only two impacts for manufacturers; restricting market access and adding cost. UKCA is another barrier to trade, adding burden to manufacturers around the world.

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Before a product is placed on the **EU market** for equipment and protective systems intended for use in potentially explosive atmospheres, it must adhere to the essential health and safety requirements and conformity assessment procedures in the [ATEX Directive 2014/34/EU](#). In the UK, the ATEX Directive was implemented by [The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 2016](#).

Following the UK's departure from the EU, before a product is placed on the **UK market**, it must adhere to the UK implementation of ATEX, defined in UK SI 2016 No. 1107, which is often shortened to 'UKEX'.

The Risk to UK Critical National Infrastructure

The industries served by members of GAMBICA, and specifically of GAMBICA's FLAG, are often large-scale manufacturing and processing sites where flammable atmospheres are present, including many of those classified as critical national infrastructure, defined as:

“Those critical elements of Infrastructure (facilities, systems, sites, property, information, people, networks and processes), the loss or compromise of which would result in major detrimental impact on the availability, delivery or integrity of essential services, leading to severe economic or social consequences or to loss of life.”

These industries include power generation, food & beverage manufacturing, oil & gas extraction and refining, and chemicals processing. The installed base of products that are safe to use in these areas is significant.

In the UK, these industries are very well established, with infrastructure often dating back 30-40 years, and the assets on these sites are maintained with products which have been in production for many years. Changing these products for more modern solutions is often a significant undertaking due to potential impacts on operation, safety and the need to maintain the critical aspects of 'fit, form and function'.

There are also examples of product models which serve small niches in an industry where supply continues because the barriers to supplying these products are low and the market is consistent enough to warrant continued production. Adding new regulatory demands such as UK certification for these products changes this dynamic, and it may not be financially viable to continue producing these products for the UK market. The UK is a much smaller market than the rest of the EU, and for manufacturers, the cost of compliance does not represent good value, so we know that manufacturers will cease to serve the UK market.

"...an inability to supply safe products poses a threat to the continued operation of the UK's critical national infrastructure"

Conformity Assessment Bodies Collaboration

In the regulatory area of flammable atmospheres, the only mitigation to the barriers to market access is through the collaboration of stakeholders such as conformity assessment bodies.

Where necessary, conformity assessment is carried out by either a UK Approved Body (UKAB) or an EU Notified Body (EUNB). For flammable atmospheres, UKAB's work closely with EUNB's, and assessments continue to be carried out by shared resources, often within the international organisation. Testing, inspection, audits and quality surveillance outputs are shared between UKABs and EUNBs as a desktop exercise as they demonstrate compliance to technically identical regulatory requirements. The conformity assessment bodies effectively implement a mutual recognition arrangement in all but name. The only difference is additional administration work and additional cost to the manufacturer while adding no real value.

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Conformity assessment bodies have been supporting industry throughout the UK's transition from the EU, but the additional costs associated with continuing to supply products in the UK still exist.

Mutual Recognition Remains the Best Solution

The fundamental purpose of product compliance is to ensure products are safe. There is currently no difference in terms of product safety between a product that is CE marked versus a UKCA marked product. The technical requirements are currently identical as internationally developed designated/harmonised standards are used to demonstrate conformity. The UK remains an active member of the European and international standards organisations (e.g. CEN/CENELEC, IEC) developing these standards and has a significant influence on these activities through its network of internationally renowned experts. There is no question that the use of internationally developed standards should continue to demonstrate compliance with applicable regulations should continue.

The introduction of UKCA marking is not making products any safer and is only adding barriers to trade. For flammable atmosphere products, an inability to supply safe products threatens the continued operation of the UK's critical national infrastructure. The government should be supporting businesses and helping to remove barriers to trade by seeking a mutual recognition agreement with the EU for product compliance.

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About the GAMBICA Flammable Atmospheres Group

GAMBICA is the UK trade association for instrumentation, control, automation and laboratory technology.



GAMBICA's Flammable Atmospheres Group (FLAG) comprises experts from across the GAMBICA membership responsible for technical and compliance matters relating specifically to products for use in potentially explosive (flammable) atmospheres.

In 2021 alone, GAMBICA members indicated sales of over 68,000 instrumentation products rated for use in potentially explosive atmospheres were sold in UK process industries, consisting of hundreds of models of varied types, from pressure transmitters, temperature transmitters, level transmitters, flow meters, and analytical instrumentation. The overall number of products sold for use in flammable atmospheres is an order of magnitude higher. It includes devices such as final control elements (valves, actuators), enclosures, control units, lighting, electrical distribution panels, cable glands, junction boxes, signalling devices, barriers etc. These products are vital in enabling the ongoing operation of the processes, sites, and factories needed to keep the UK running.