

Sovereignty, Regulatory Divergence and Deregulation

A comparative policy analysis of post-Brexit Britain and the United States.

EXECUTIVE SUMMARY

Sovereignty-centred politics and deregulation often appear together, but the relationship is conditional. Brexit created legal discretion for the United Kingdom to depart from European Union rules. It did not prescribe which rules should change, how quickly they should change, or whether replacement rules should be weaker. The post-Brexit record instead shows continuity, selective divergence, added administrative work, and renewed interest in alignment where trade benefits are substantial. The United States reaches deregulatory outcomes through a different route. Executive orders, agency rulemaking, enforcement choices, and judicial review can reduce federal requirements without withdrawal from a supranational legal system. These cases support a narrower causal claim: sovereignty rhetoric can create political support for regulatory discretion, while domestic institutions and policy choices determine the outcome. Governance teams should therefore monitor the legal instruments, implementation capacity, and market access consequences that convert political commitments into operational risk.

RESEARCH QUESTION AND CONCLUSION

Research question Does sovereignty-centred politics cause deregulation or does it create an opportunity for governments to alter regulatory alignment?

The evidence supports the second explanation. Sovereignty-centred politics is an enabling condition for regulatory divergence, not an independent cause of deregulation. Formal autonomy expands the range of choices available to domestic institutions. The direction of change then depends on legislation, administrative capacity, sector interests, enforcement priorities, trade exposure, and the government's substantive objectives.

Analytical framework

CONCEPT	WORKING DEFINITION	OBSERVABLE EVIDENCE
Sovereignty-centred politics	A claim that domestic institutions should recover decision-making authority from external bodies	Campaign commitments treaty choices and changes in legal competence
Regulatory divergence	A domestic rule or enforcement approach that differs from an external baseline	Different standards authorisations reporting duties or enforcement practices
Deregulation	Removal simplification or weakening of an obligation or its enforcement	Lower compliance duties narrower coverage reduced cost or weaker supervision

Re-regulation	Replacement of an external rule with a domestic rule	A new requirement that may be weaker equivalent or stricter
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BREXIT CREATED DISCRETION WITHOUT DICTATING OUTCOMES

The European Union Withdrawal Act 2018 converted a large body of EU derived rules into domestic law at the end of the transition period. That choice protected legal continuity. Parliament could later amend those rules, but exit itself did not erase them. The Retained EU Law Revocation and Reform Act 2023 changed the interpretive status of this body of law and made it easier to amend or replace. The final Act nevertheless abandoned the Bill's original default sunset. It listed 587 instruments for revocation while thousands remained in force and became known as assimilated law.[1]

The sequence matters for causal analysis. Brexit supplied competence. The 2018 continuity settlement, the 2023 legislative design, and later departmental decisions determined how that competence was used. The government's final dashboard, updated in July 2026, catalogued 6,921 pieces of retained or assimilated law. The total grew partly because departments continued to identify instruments, so it is not a clean measure of either regulatory expansion or reduction. More important, the special reform powers expired on 23 June 2026 while a large stock of assimilated law remained. Reform can continue through ordinary domestic legislation, but wholesale repeal was never an automatic legal consequence of leaving the EU.[2]

Regulatory autonomy also created new state functions. The National Audit Office found that the Health and Safety Executive, Food Standards Agency, and Competition and Markets Authority assumed significant responsibilities previously performed within EU systems. They received additional funding but faced skills shortages, information gaps, uncertain workloads, and dependence on interim arrangements. In this setting, divergence can increase administrative burden even when political rhetoric promises fewer rules. A government may remove an EU obligation yet still need a domestic authorisation process, data system, regulator, and enforcement regime.[3]

Food and pesticide rules show selective divergence

Maximum residue limits for pesticides provide a concrete example. The Health and Safety Executive states that Great Britain sets its own limits, while EU law and EU limits apply in Northern Ireland. Existing EU limits were initially carried across, but the two systems may differ as either jurisdiction updates its rules. Great Britain may also adopt an international Codex limit after a domestic risk assessment. This arrangement proves that Brexit enabled divergence. It does not prove that every difference is deregulatory or harmful. That assessment requires comparison of the specific limit, the underlying exposure analysis, monitoring, and enforcement.[4]

The policy direction can also reverse. Following the 2025 UK EU summit, the government began negotiating a sanitary and phytosanitary agreement that would create a common area for food and agricultural rules. The Food Standards Agency reported in March 2026 that the proposed model would require dynamic alignment with relevant EU rules in defined areas, subject to the agreement and any negotiated exceptions. It also noted that most divergence since exit arose through specific updates by both sides. The proposal reflects a domestic judgment that reduced border friction and shared standards may outweigh the value of independent rulemaking in the covered sectors.[5]

Deregulatory policy is not confined to governments that sponsored Brexit. In March 2025, the Labour government announced a plan to reduce the administrative cost of regulation on business by one quarter

and streamline regulators and environmental processes. The plan sits alongside negotiations for closer EU alignment in food regulation. Taken together, these choices show that alignment and simplification can coexist. They also weaken any claim that deregulation follows mechanically from nationalist ideology: governments can seek lower administrative costs while retaining substantive standards, or align externally while revising domestic enforcement and process.[6]

THE UNITED STATES USES A DIFFERENT LEGAL MECHANISM

The United States comparison separates political rhetoric from legal cause. In January 2025, Executive Order 14192 directed executive agencies to identify at least ten existing regulations for repeal whenever they proposed or issued a new regulation, unless law prohibited that approach. It also required the total incremental cost of new regulations for fiscal year 2025 to be significantly below zero. The legal mechanism was presidential direction within the executive branch, implemented through the Office of Management and Budget and federal agencies. It did not depend on withdrawal from an international institution.[7]

Agency action supplied the next step. In March 2025, the Environmental Protection Agency announced 31 reconsiderations involving power plants, vehicle emissions, air quality, greenhouse gas reporting, hazardous air pollutants, environmental justice, and enforcement. Reconsideration is not the same as repeal: agencies generally must develop a record, publish proposals, receive comments, issue final action, and defend that action in court. The announcement nevertheless shows how an administration can translate a deregulatory agenda into a pipeline of domestic proceedings.[8]

Experience from the first Trump administration adds a useful qualification. The Government Accountability Office examined five agencies that implemented more than half of the actions under earlier deregulatory executive orders. It found that the orders produced only limited changes to the agencies' underlying regulatory processes and procedures. Numerical targets can shape priorities and reporting, but statutes, administrative procedure, evidence requirements, staffing, and litigation continue to constrain outcomes. Nationalist language may justify the agenda politically; domestic authority and process perform the legal work.[9]

NONMEMBERSHIP DOES NOT PREDICT REGULATORY INTENSITY

Norway and Switzerland provide boundary tests. Norway is not an EU member, yet the European Economic Area Agreement places it in the internal market. EU acts within the agreement's scope are incorporated through decisions of the EEA Joint Committee and implemented in Norwegian law. The arrangement covers competition, consumer protection, environment, and public health as well as the four freedoms. Formal nonmembership therefore coexists with extensive regulatory alignment and external surveillance.[10]

Switzerland uses a dense network of sectoral agreements rather than EU or EEA membership. The Swiss government describes roughly 20 main agreements and many other treaties that provide market access and cooperation. Its 2026 package with the EU adds institutional mechanisms and dynamic alignment for covered market access agreements while preserving domestic procedures and defined room for manoeuvre. Both countries demonstrate that distance from EU membership can lead to negotiated alignment rather than broad deregulation.[11]

GOVERNANCE IMPLICATIONS

For compliance and policy teams, political labels are a weak early-warning indicator on their own. The practical task is to trace how a sovereignty claim moves through legal competence, rulemaking, implementation, and enforcement. Four questions make that assessment more reliable

- What instrument changes the rule and which institution has authority to issue it?
- Does the change remove a substantive safeguard or only alter process reporting or terminology?
- Can the regulator implement and enforce the new regime with available staff data systems and expertise?
- How will divergence affect market access supply chains duplicate testing and cross-border reporting?

This framework is directly relevant to AI and data governance. A jurisdiction may claim regulatory independence while adopting standards that remain functionally aligned with foreign rules because firms need access to external markets. Another may retain a statute but reduce supervisory capacity or enforcement, producing deregulation in practice. A third may replace broad principles with detailed domestic requirements, increasing compliance work even while officials describe the reform as simplification. The operative risk lies in the text, institutional capacity, and enforcement path, not in the slogan attached to the reform.

CONCLUSION

Isolationism is neither necessary nor sufficient for deregulation. Brexit expanded the United Kingdom's authority to diverge, but continuity legislation, administrative constraints, trade incentives, and later political choices shaped the result. The United States demonstrates that a government can pursue substantial deregulation through domestic executive and administrative power without leaving a supranational legal order. Norway and Switzerland show that nonmembership can coexist with extensive alignment. The defensible conclusion is therefore conditional: sovereignty-centred politics may widen the opportunity for regulatory change, but institutions and policy choices decide whether the result is deregulation, re-regulation, continued alignment, or selective protection.

SOURCES

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