



Select Committee on the European Union

Environment Sub-Committee

Corrected oral evidence: Chemicals regulation post Brexit

Thursday 22 October 2020

4.05 pm

[Watch the meeting](#)

Members present: Lord Teverson (The Chair); Baroness Brown of Cambridge; Baroness Bryan of Partick; Lord Cameron of Dillington; Lord Carter of Coles; Lord Giddens; Baroness Jolly; Baroness McIntosh of Pickering; The Duke of Montrose; The Earl of Stair; Lord Young of Norwood Green.

Evidence Session No. 2

Virtual Proceeding

Questions 14 - 29

Witnesses

I: Dr Jo Bray, Deputy Director, Chemicals and Bioeconomy, Department for Business, Energy and Industrial Strategy; Gabrielle Edwards, Deputy Director of Chemicals, Pesticides and Hazardous Waste, Department for Environment, Food and Rural Affairs; Dr Richard Daniels, Divisional Director, Health and Safety Executive; Rt Hon George Eustice MP, Secretary of State for Environment, Food and Rural Affairs.

Examination of witnesses

Dr Jo Bray, Dr Richard Daniels, Gabrielle Edwards and George Eustice MP.

- Q14 **The Chair:** Good afternoon, everybody. This is the second session of the House of Lords EU Environment Sub-Committee inquiry into chemicals regulation post Brexit. I welcome the Secretary of State for Defra, George Eustice, and officials from Defra and BEIS. I remind everybody that this is a live webcast and therefore a public meeting. We are taking a transcript and we will be able to show that to our witnesses. If there is anything in it that you feel is incorrect, please let us know. I remind our members to declare any interests they have in the subject area the first time they speak.

Secretary of State, perhaps I could ask you to very briefly introduce yourself and your officials.

George Eustice MP: I am the Secretary of State for Defra. With me is Gabrielle Edwards, who leads on chemicals policy within Defra. We have Dr Jo Bray from BEIS.

- Q15 **The Chair:** We also have Dr Richard Daniels from the Health and Safety Executive.

Secretary of State, perhaps I can start with a fundamental question. This Committee and its predecessors have looked at REACH regulations a number of times in the past. It is a cross-departmental responsibility and policy area, hence why we are pleased to have both Defra and BEIS here. Last week, we had representatives from the industry in front of us and they were not a very happy bunch, to put it rather colloquially.

Where in your department's priorities does the chemical industry find itself? In Defra, you have agriculture, where there is huge change. You have fisheries, which has really become the focal point of the EU-UK Brexit negotiations. Someone from outside the sector might think that fisheries has all the emphasis and that the chemical industry, the second-largest manufacturing industry in the country after food processing, has effectively been forgotten. In fact, Lord Frost said there was no chance that, say, the motor industry was going to get what it wanted on rules of origin. I presume that is the case for the chemical industry as well. Does it really count in Defra and BEIS?

George Eustice MP: It absolutely does. The chemical industry is a very large and important industry in this country. More to the point, having robust regulation in place on these hazardous substances is critical, both for our environment and for public health. That is why we place great importance on this, contrary to what some might have said.

However, in common with many, many issues related to our departure from the European Union, there are complexities to unravelling and unbundling the REACH system. We need to do that and have our own domestic system, for a number of reasons that I think are now properly understood. That creates some challenges. We have been trying to

address those in a way that gives people as much time as possible to adjust and to provide those data packages that will eventually be needed, and to make sure that we have continuity for trade and markets.

The Chair: Are the Government going to sacrifice a trade deal in the chemical industry for the sake of fishing rights? Is that how it works?

George Eustice MP: You have to look at all these things in the round. It is important as we leave the European Union that we take back control of our Exclusive Economic Zone. There is no other country in the world that is independent and does not control its EEZ. It is a feature of international law under UNCLOS, and nobody doubts that it should happen.

Other issues are being worked through by David Frost and his team related to state aid, subsidy regimes, so-called level playing requirements and what that might entail.

There are some sticking points in this negotiation. We are working hard to resolve and work through those. As we have said all the way along, we also have to be prepared for the fact that we may need to leave at the end of the transition period without any further negotiated outcome. All our preparation is geared to ensuring that we can do that.

Q16 **Lord Cameron of Dillington:** This is a very broad question. We were told that the UK chemical industry probably has about 100,000 employees working in it. Last week, we were told about major businesses in paint, for instance, where a lot of the factories are dependent upon this legislation working. There is a turnover of £32 billion. The real worry is that, without alignment, this new system will not protect workers and their jobs, and it will take a long time to get the whole thing going. Do you have any comfort for the 100,000 employees working in the industry?

George Eustice MP: We have approached REACH by doing a number of things. The IT system that establishes UK REACH, the data and the requirements will be very, very familiar to those who use the EU version of REACH. We have deliberately designed it to be quite similar. We have tried to make it as simple as possible, in that registrants of existing products and chemicals on REACH have 120 days to register those details on the UK REACH system. The further downstream users who might not have needed a registration previously have been given 300 days to register the products they are using. Thereafter, we are giving people up to six years to get the data packages together.

We are taking a graduated approach for the substances that are traded in the highest volumes. There will be a two-year period, rising to four years in the middle, and then six years for those where the use is lowest in total tonnage. Most of those will be in that six-year bracket. That gives industry plenty of time to work through data-sharing arrangements. Bear in mind that EU companies will also need to register on the UK REACH system, so there will be a mutual interest for consortia that own the data

to work sensibly and pragmatically together to make sure that they can register on the new system.

The Chair: Secretary of State, you presumably meet with representatives of the chemical industry. What takeaway issues do you get from them that you will keep in your mind as we approach the end of transition?

George Eustice MP: Their No. 1 concern is the cost of getting those data packages. When I became Secretary of State, I was very conscious of that potential problem. You might recall that, initially, we said that those data packages would have to be provided within two years in all cases. I moved to the approach of four years and six years based on tonnage, because the more time you are given, the less pressure there is on you to get the data, and the less scope there is for other partners in a consortium to try to hold you to ransom and overcharge you for the data you need.

By spreading this out over six years in the way we have, we provide plenty of time for those companies to identify the data packages they need and to get them lodged. It also gives time—this is still a possibility that we are pursuing—for the European Union to engage with us on a data-sharing exercise that could make life a lot easier for everyone.

The Chair: We hope to come back to some of those items in more detail later.

Q17 **Baroness Jolly:** Secretary of State, could you outline your aims for chemicals in the UK-EU future partnership negotiations? How confident are you of achieving them?

George Eustice MP: Our objective in the current discussions on a future free trade agreement is zero tariffs on all goods. That includes all the chemical industry as well. We have set out a clear course on regulation, which is that we will have a system that is designed in a similar way to the EU's, but it will be an independent system, similar to what Switzerland has done for some time. The difference is that we will be seeking those data packages, because that will be important to achieve.

Those negotiations are ongoing. There will be discussions on industrial goods, which could have a bearing on some sections of the chemicals industry in relation to agreements and understandings on things such as rules of origin. Our approach on all industrial goods has similarities. We are looking for zero tariffs on all goods and for some understandings on things such as rules of origin.

Q18 **The Duke of Montrose:** The current REACH registration is under EC 2003/2003, and the contracts were granted for this but not for a second scheme, so UK REACH cannot really take possession of this data. Are you saying that the Health and Safety Executive will simply recognise the European certificates in the first two years and use that as a basis for fertilisers? I should have declared my interest as a farmer, a member of the Scottish NFU and an honorary member of the BVA.

George Eustice MP: The principle with which we are approaching this is to say that we will offer grandfathered rights to existing registrations that are on the EU REACH system. There are around 1,350 British companies with registrations currently on REACH, for a total of around 5,000 different substances that are covered by just short of 10,000 separate registrations. All those registrations can be lodged on UK REACH, and we are giving them 120 days to do that so that they can lodge the fact that they are using those chemicals.

For the data packages that underpin those registrations on EU REACH, we will give people a significant amount of time to lodge those with us. It is effectively a grandfathered system where we will recognise existing authorisations and registrations on UK REACH, with the data that underpins those registrations to follow.

Gabrielle Edwards: You have set out the way in which the system will work. This is really about information sharing. Therefore, we can recognise that those UK registrants have already gone through an EU REACH registration process, but we can allow them that extra time to put in the data packages.

The difference, and where the data issue gets really complicated, is that there are these data consortia. That is outside the way the European Chemicals Agency operates as well, because the data consortia are commercial and driven by commercial contracts between parties. That is why we have to leave it to the industry to resolve that through that period and through the extended timelines that we have allowed.

The Duke of Montrose: It looks a little like this will work very easily for British-registered companies, but if chemicals are coming in from Europe, how will they fit in?

George Eustice MP: That is where the so-called downstream users come in. The 1,350 companies with existing registrations will have 120 days to register those, but the so-called downstream users that might currently rely on a registration by an EU-domiciled company will, under our system, need to register the fact that they are using those particular substances. We are giving them longer in recognition of the fact that, in some cases, they may have to identify who else is doing this, someone may have to be the lead registrant and it may take a little longer. We are giving them 300 days.

We do not know how many of those there are. We can say with quite a degree of certainty exactly how many companies there are with existing registrations and for which substances. The harder thing to predict is which companies might now need to register additional substances that are currently registered with other EU-domiciled companies.

It is difficult to tell you how this will bed down. BASF has already signalled that, for most¹ of its substances, it will probably step forward

¹ The Secretary of State subsequently clarified that "most" should read "some".

and just get them registered on UK REACH. Those downstream users will then find it relatively easy to form a cluster around a large conglomerate of that sort, and join in a consortium with their registration. I suspect that will happen in most cases. Where it might be harder is if you have an EU company and the UK market is a very small part of its overall market. It might judge that it is not worth its while to lead that registration process, in which case somebody else would need to.

Q19 Lord Giddens: Thank you for your answers so far. The EU has a sophisticated growth strategy linking the chemicals industry and REACH to the environmental programme, the Green Deal. How will the Government forge such connections here, given their very ambitious environmental objectives? How much detailed thinking has gone into this so far?

George Eustice MP: We have our own ambitions for the environment, set out in the Environment Bill, which will resume its passage through the Commons after the recess. That sets out a requirement for us to have that 25-year environment improvement plan. That covers issues ranging from biodiversity to water quality, waste and hazardous substances. We have our own ambitions for the environment set out in the Environment Bill. In that Bill, we have also taken a power to modify and improve regulation in this area. We are taking powers in the Environment Bill to ensure that we can constantly improve and refine our regulation in this space, so that we can deliver our objectives set out in the Bill.

Lord Giddens: Would that mean that there has not been much detailed thinking? Forgive me for saying so, but that sounded like rather a generalised answer. Chemicals have an enormous impact on environmental objectives. The two have to be linked in concrete policies and with concrete modes of approaching them.

George Eustice MP: I do not really accept that. We have already started some early engagement with key stakeholders on the targets framework that we intend to consult on. That will look at things such as water quality and the chemicals that, sadly, find their way into the sewage system and our water system, predominantly through substances used in cosmetics. It is an area that we are looking at and addressing at the moment as we design those targets and that framework.

Q20 The Chair: The main accusation of the industry was that, in a way, the whole of UK REACH is built on a philosophical argument rather than a practical, industrial one. All British chemical companies will have to keep to EU REACH standards anyway, because that export market is so important, in addition to their importing of chemicals. There was not a lot of understanding of why we needed to have a UK REACH at all when our industry will effectively have to comply with EU standards, so the costs, which we will come to in a minute, were unnecessary in a practical sense.

Indeed, I seem to remember under the previous Government, when Prime Minister May was in No. 10, that there was an idea of continuing our relationship with EU REACH. Do you see that accusation as accurate?

Is this really just a political exercise, and a very expensive one, for an industry that is important to the UK and Europe?

George Eustice MP: I do not agree. We have to future-proof this policy. We recognise that in the immediate short term we are unlikely to diverge much at all from existing EU authorisations. It is for that reason that we have the confidence to grandfather across the authorisations that are there and give people up to six years to get the data packages.

However, it is important to recognise that, when these substances and chemicals are assessed, some regard is currently given to UK environmental and health circumstances. You can get differences between health impacts of different substances based on individual populations in different countries. That has long been recognised in many areas, particularly pharmaceuticals regulation.

We cannot yet assess the impact. UK technical expertise is considerable in this space. The chemicals regulation division within HSE leads a lot of the thinking. A lot of the technical expertise within the EU is UK-provided. Once we cannot provide that, we do not know what sort of regulation there will be. I know that people tend to see the EU as the gold standard, and they presume that anything we do could only be weaker, but that is not necessarily the case in technical areas such as this where the UK has a lot of expertise.

We absolutely want a smooth transition. That is why we are grandfathering those authorisations across and giving people as much time as possible, but if we want to future-proof this system so that it takes account of UK circumstances and future-proofs us against the risk that the EU might decline as a regulator, we have to have the ability to do this independently. That is what we are doing.

The Chair: The accusation was not that the EU is perfect in any way. The fact is that industry will still have to comply. In terms of divergence, things will change on the other side of the channel and on the other side of the Irish Sea from 1 January. There will be new chemicals coming in. There will be things that change in EU REACH. How quick will that divergence be? That is what concerns the industry practically. Divergence is bound to happen immediately, is it not?

George Eustice MP: Divergence in this area will be reasonably slow for a number of reasons. New products come to the market quite slowly and incrementally. Switzerland had an approach whereby it recognised everything the EU had and then started requiring individual authorisations² on new chemicals. Most of what sits on its own version of REACH is still the grandfathered EU substances that it gave authorisation to³.

² The Secretary of State subsequently clarified that "requiring individual authorisations" should read "requiring individual registrations".

³ The Secretary of State subsequently clarified that "gave authorisation to" should read "registered".

New products coming to the market would have to go through an assessment through the UK, but if we are taking a similar approach to the assessment of hazards and risks, and in many cases relying on the same evidence base from the research and development that is being done, it is likely that we will arrive at similar conclusions. In most cases, the divergence will probably be quite slow. That is why we have had the confidence to take a long-timeframe approach to the registration of that data.

Q21 Baroness McIntosh of Pickering: Secretary of State and Gabrielle, welcome. Can you give us and the industry an assurance that we are not looking to have divergence for divergence's sake? You have just said that new products will be assessed in the UK. Presumably they will have to go through a similar assessment in the EU. The chemicals industry is currently a very strong UK success story. They explained to us just how integrated the supply chain with the EU is. Will they have to go through a double registration process? What is the Government's assessment of the transition costs for businesses of UK REACH and the impact of these costs on the chemicals sector, the wider economy and consumers?

George Eustice MP: For new substances, yes, they would have to go through a dual application. They would have to register the data file that they have with the EU and then register the same data file on UK REACH. A lot of the evidence required would be similar and comparable, but, yes, there would be a dual process on future authorisations.⁴ As I described, there will be a grandfathering process on existing ones.

On costs, we have seen industry estimates that suggest this could be up to £1 billion. It is very hard for us to ascertain whether that is accurate. We have no reason to doubt the figure that they have put on it. We know that the administration cost on business is in the region of £60 million. We estimate the cost of fees for elements of the work at £160 million.

The bit that is far less certain, and it is only an estimate which the industry has come up with, is that it might cost them around £750 million to get agreement from the consortia they are now in to be allowed to share the data on UK REACH. There would be a cost for EU companies, probably not as high as that but a similarly significant cost, which would also need to register their products on UK REACH.

If you give people enough time, they might all judge that it is not worth holding one another to ransom over the cost of providing this data. They have a mutual interest in sharing this data on both systems, provided we give them sufficient time to do that so that nobody is under extreme time pressure to provide that data through this.

We have extended these timescales to reduce the pressure on them to provide that data, giving them all as much time as possible to come to

⁴ The Secretary of State subsequently clarified that "authorisations" should read "registrations".

the realisation that it is in their mutual interest to work together sensibly and pragmatically.

Gabrielle Edwards: The requirements for the information that industry has to submit to the UK regulator are exactly the same as will go to the EU. We have not changed that in any way in bringing REACH into UK law. The dossier will need to go in two directions, but it will be exactly the same information.

The thing to remember about REACH is that this is not an approval process; it is a submission of data process. HSE is taking that registration and doing initial checks on accuracy and completeness, but we are not going through lengthy, expensive validation processes. There is no product approval here. We have no plans to change the basic submission of information required in the registration dossier or to add any cost to industry in that way.

Baroness McIntosh of Pickering: Of the £1 billion that the industry is estimating, it says that £370 million is the cost of reregistration under UK REACH. That seems incredibly high, given that the UK is a 10th of the size of the EU market. Can I put that figure to you, Secretary of State?

George Eustice MP: That is not a figure that we recognise. Bear in mind that we will allow them to register the grandfathered substances free of charge. We are not even going to charge for that. There are also some significant allowances with regard to the costs for smaller businesses and SMEs. The costs would come at the point at which they have to lodge those data packages, where there will be some cost recovery. We have met the industry part way on this by enabling it to register those grandfathered products and substances without charge.

We estimate that the fees will be more in the region of £160 million, much less than they seem to be suggesting. Our understanding was that their main concern was the cost of unravelling commercial consortia, and a fear that they might be held to ransom and end up being overcharged for data that they have already contributed to. The best remedy for that is for us to give them as much time as possible to work through those sorts of issues.

Q22 **Baroness Bryan of Partick:** To carry on with the concerns that we have heard, one of the issues was that industry felt that it was being asked to pay the same to register for UK REACH as had been charged for EU REACH, which is obviously reaching a considerably larger market, and that it might be economically disadvantageous to register some products that do not have a large volume. They would just withdraw those from the market.

Spreading the cost over a longer period is of some benefit, but it still amounts to the same overall cost. There are concerns that SMEs have to meet the same charges for data and testing. For a small company, that will be a relatively larger cost and will be regressive for their budgeting.

George Eustice MP: They will have to judge whether it would be worth registering on UK REACH. That is why we are giving them six years for substances that are sold in low volumes. We are giving them as much time as possible to get those data packages.

Switzerland has its own independent system. The evidence, by and large, is that people still want to be registered there. Switzerland might be a smaller market than the EU, but nevertheless it is a market and worth accessing. I think that would be the case for the UK. Yes, we will be a smaller market overall than the residual EU 27, but we are still a significant market. In most cases, they will think it worth their while to do that.

On the timing, it does potentially help in bringing down the overall cost of getting those data packages. Once you remove the urgency to do that, you strengthen the negotiating position of those who need the data package. To give an analogy, if I am trying to buy a new house and I have a tenancy that expires in two weeks' time, I will be in quite a lot of hurry to finish the completion on the house I am buying and will not feel disposed to cut up rough if there are any last-minute arguments over money. If I have a tenancy that I can rely on and that does not expire for a couple of months, I am in no particular rush and can take a stronger negotiating stance.

Time is money. Giving people more time strengthens the negotiating hand of those who need the data to do these registrations. It will probably mean that they will be able to access that data at a lower cost.

Q23 The Earl of Stair: You mentioned in your introductory comments that the chemical industry has formed a large and important part of our society. Chemicals are very integrated into modern society. Has any consideration been given to whether there are any sectors in the United Kingdom involved in the chemical industry that would be unable to justify the costs of complying with UK REACH? What are the implications for the remainder of United Kingdom society?

George Eustice MP: We have done a lot of work and a lot of thinking about the 1,351 companies that we know about, and the registrations and substances they have. The bit that is harder to ascertain is the downstream users that might be relying on current EU registrations. That is much harder to predict, because by their nature we do not have that data. We think it will be a significant number of companies. Gabrielle, have any impact assessments been done in that space?

Gabrielle Edwards: We have had extensive conversations with the sector, as have our colleagues in BEIS. You hear different things. Some companies have raised concerns about whether the costs of UK REACH will be too much where a substance is particularly niche and the market just is not big enough. We have seen no firm evidence of that; nobody has come to us and said, "That product will disappear". Frankly, until it actually happens, there are many uncertainties. We do not know whether

there will be a deal with the EU that brings costs down for industry. We certainly hope that there will be.

Is it just the cost of REACH? There are many other things going on in terms of the overall economic position and other issues that the sector is having to deal with. It is not possible at the moment to answer that question, but there are undoubtedly companies that have concerns about this.

The Earl of Stair: Is a fallback plan in place so that, if a problem develops, the Government will be able to intervene?

Gabrielle Edwards: I can only talk about how we would approach environmental regulation. The Government's approach has been to bring existing EU legislation into UK law. We are adapting that to work within the UK, so we are thinking about how we regulate chemicals. We would face other very difficult questions if it was suggested that we were not going to regulate chemicals in a way that continued to protect health and the environment. That does not mean that there are not some very difficult balances to be struck, but at the moment, no, we do not have any plans for how we would intervene if those sorts of things happened. We will keep a very close eye on it, as I am sure our colleagues in BEIS would.

Dr Jo Bray: To back up what Gabrielle has said, we are working very closely with her and colleagues in Defra. We are reaching the sectors in two ways. We are engaging certainly weekly, pretty much daily, with the chemicals sector on the changes at the end of transition. They are talking to their suppliers and customers. We are also directly engaging with potential downstream users through the sector teams in BEIS, such as automotive and aero. We work very closely together. It is difficult to put a figure on it, because we just do not know, but we are engaging through as many routes as possible. We will continue to monitor the situation.

The Duke of Montrose: Officials must be aware that all EU chemicals will be reregistered as of January, so the grandfathering that we do will be increasingly out of date. Will the new registration for the UK incorporate these unique formula identifiers, the statement of nanoform specifications and endocrine disruptors?

Gabrielle Edwards: We will have to make some decisions about how we incorporate the provisions of the REACH annexe on nanomaterials into UK law. That will not be in effect at the point the transition period ends, so there will be some decisions to be made in the UK about how we approach that. That is something we will come to.

Q24 **Lord Cameron of Dillington:** Dr Daniels, in simplistic terms, is the Health and Safety Executive ready to perform its chemicals regulation role from 1 January 2021?

Dr Richard Daniels: The short answer is yes. The slightly longer answer is to explain that. Since the vote on the referendum, we have been preparing for the transition. We have taken account of all the changing

circumstances and the environment. We have a clear plan on that. As we speak, we are heavily recruiting to increase our staffing numbers. We have reviewed all the processes and systems that we will need, and we have looked at what our skillsets will be for the future.

All that is based on the fact that the systems we would have to operate from 1 January are the same as what are operating now under the legislation. These are not fundamentally new processes for us; it is about applying them in the UK context. To the information that the Secretary of State has given, continuity is important for us, so industry should not see a big difference in the interaction with us as the regulator. Yes, we will be ready, we will be operating, and we will have this system in place for 1 January. I hope that gives confidence.

Lord Cameron of Dillington: ECHA has 600 staff in Helsinki and 21,000 chemicals to deal with. Can you find the expertise and the right resources to understand all these various chemicals? To give an example, last week we were talking about perfluorinated chemicals. ECHA will have an emphasis on trying to ban them for nonessential users. That will occupy a huge amount of its team of 600. Could you do such an exercise?

Dr Richard Daniels: We need to see what is going on. We are not trying to replicate ECHA in terms of size. It has a different function, spanning all 28 EU Member States. It has had a very different history, with 10 years of work to get all the REACH systems up and running and the information on the database. We are not starting from a base of nothing. The starting point is the existing information available and the studies that are ready. That is the basis for where we will commence our process.

We will seek support for our opinions and approaches from independent experts. We will have the facility to do that from the UK but, unlike the current European system and ECHA, we will not be bound to draw it only from Europe. We will be free to draw it from wherever that opinion is based. We will have quite a flexible system to deliver what we need for the UK environment and its particular needs.

Picking up the Secretary of State's earlier comment, in the UK we have some different standards on environmental conditions and needs to take account of. We have a different health and safety regime that operates in workplaces. We can take all those other things into account in a much more tailored way after 31 December than in the position we are currently in with the European Union.

Lord Cameron of Dillington: Are you having luck, if that is the right word, in finding all the scientists who are needed for this huge job with all these chemicals involved? Do the local authorities, which will be enforcing a lot of this, have the resources to prosecute and carry out the instructions you are giving them?

Dr Richard Daniels: Recruitment is going well at the moment. To give you an indication, across all the chemicals regimes that we are responsible for—it is not just REACH that we have to set up, but regimes

for biocides, pesticides and others—we are looking to bring in over 100 people by 1 January. By the end of March next year, we are looking to bring that number up to 130. We have plans for the next two years, subject to funding. We currently have about 260 people, so you can see the size of increase that we are aiming for. It is a big investment in this process.

If you ask me the question in two weeks' time, I can give you a better answer, because we have just finished interviewing for in-house recruitment. What is important is that we have existing experienced scientists to do the work. In the context of REACH, I will echo the comments from the Secretary of State. We expect a relatively slow pick-up in volume for new work. We have the capacity to do that. Therefore, the two-year, four-year and six-year periods, as a way forward, give us time to grow that capacity. If we do not have it in-house or with the Environment Agency, we will find external support to help us to do our work and form our opinions.

Lord Cameron of Dillington: What about the local authorities? They are the people checking your work on the ground.

Dr Richard Daniels: They are. That will probably not change, because they are checking against the background legislation in place. The mere fact that we are moving to a UK regime, totally independent, does not affect the front end of what is on the market and the choices for local authorities as to how they target their resources.

The Chair: To Lord Cameron's point about local authorities, we have had feedback that the enforcement in the UK is so low these days that there is a real question about how much enforcement ability there is. When it comes to chemicals, that is quite concerning. I will let you come back to that if you wish.

Q25 **Baroness Brown of Cambridge:** Thank you very much, Secretary of State and your team, for the answers so far. We have heard quite a lot about the importance and the ubiquitous nature of chemicals in our everyday lives. We all know that some chemicals have huge potential to impact humans and the environment. Has any consideration been given to making the chemicals regulation division of HSE into a chemical standards agency, so that we have an agency with the sort of reputation and clout of the Food Standards Agency, the European Medicines Agency, or the European Chemicals Agency? This is such a key area for us.

Dr Richard Daniels: There are no immediate plans to convert it into an agency in the way you described. From 1 January, we will be carrying over the authorisations and restrictions that are already there at European level. They are targeted on controlling the most hazardous chemicals in their continued usage. We will also be carrying over the candidate substances of very high concern, the ones that have a potential to cause the greatest harm. That is our starting point for tackling what will have the greatest harm to health or the environment, because Europe has already identified many of those over the last 10 years.

Baroness Brown of Cambridge: Can I also direct that question to the Secretary of State? The Health and Safety Executive might not have been considering it, but I wonder if government has been considering it.

George Eustice MP: In our arrangements for both pesticides and chemicals, while the chemicals regulation division is not constituted as an independent body—it is a government agency—it will often take delegated decisions on its own, based solely on the technical science. There has been a convention for some time that health and safety, particularly in the context of the use of potentially hazardous substances, is an evidence-driven decision-making regime. While it is not constituted with an independent board and set up as an independent public body with no connection to ministerial departments in the way the FSA was set up,⁵ it is afforded a large degree of technical independence. These are quite often very technical dossiers that it leads on.

Q26 **Lord Young of Norwood Green:** This question follows from the question about local authorities. Will the Office for Environmental Protection be prepared and sufficiently resourced to ensure that the wider enforcement regime is effective?

George Eustice MP: We have started a recruitment process for the first chair of the OEP. That process is nearing its end. We will have a chair of the OEP appointed by the end of the year and in place in the new year. They will be supported on an interim basis by a secretariat provided to them by Defra to get started.

When the Environment Bill receives Royal Assent, it will become a fully independent body. We are already giving thought to what staff it would need, and so forth. The Environment Bill is about to resume its passage through the Commons stages. We are confident that the OEP will be in place and able to deal with any issues that it judges might arise under this.

Q27 **Lord Carter of Coles:** Secretary of State, if the increased regulatory cost is £1 billion a year⁶, did the impact assessment have any view on the effect on the competitive capacity of the industry? We are essentially putting up costs by 3% in a very competitive industry. Is there a view on that from the department?

George Eustice MP: I am not sure it is 3%.

Lord Carter of Coles: It is £1 billion in around £30 billion, is it not?

George Eustice MP: It depends. It would be over quite a long timeframe of six years and, for the reasons I gave, it is an uncertain estimate. If I am honest, we are not in a position to say with clarity that the industry has got this wrong, but its estimate is based on certain assumptions and we do not know whether they are right. There may well be, as we intend,

⁵ The Secretary of State subsequently clarified that the HSE does have an independent board and was set up as an independent public body.

⁶ Clarification: £1 billion is the estimated one-time cost, rather than an annual cost.

a chemicals annexe to a trade agreement that is eventually done by the EU. That could change things quite significantly.

Once people get into this issue in the cold light of day, the existing consortia might well realise that it is in their mutual interest to work together to make sure that the data is put on in a cost-effective way. It is very hard to judge whether that figure is right. We have no reason to disagree with it, but there is some doubt about what the actual cost would be at the end of the day.

Lord Carter of Coles: In the tradition of hoping for the best and planning for the worst, six years is merely a deferral of the issue. I understand the transitional nature and the need to smooth it, but in six years' time those costs will be there. Does the department accept that it makes the industry uncompetitive, whether it is next year or in six years' time? There is no certainty, but it may.

George Eustice MP: We acknowledge, and we have never pretended otherwise, that by setting up an independent UK REACH there will be additional costs for companies seeking registrations on that, whether it is a new product, where they would have to file a separate data package to that which they put on EU REACH, or whether they are trying to get a data package for an existing registration. We have tried to help them by making sure that they can lodge those grandfathered authorisations⁷ without charge.

Gabrielle Edwards: To reinforce the point, these are estimates. No one knows how these costs will work through. There are things the industry could do to bring those costs down by working together. For example, CIA and Cefic put out a paper some time ago suggesting that the industry should focus just on admin costs and not charging for the data again, given that the existing registrants have already paid for this as part of their EU REACH registration. The industry thought that would help solve the problem, so we need to see whether that will happen or whether those worst-case scenarios start to emerge.

Lord Carter of Coles: I am looking for some bookends. None of us knows, but it would be quite interesting to know what the bookends are.

Q28 **The Chair:** To follow up on costs, if the Government achieve their Australian trade deal at the end of the year, what tariffs will the industry face on exporting into Europe and on its suppliers from Europe?

George Eustice MP: I do not have that figure. As you know, tariffs are very, very long tables of things for different products and can vary. Tariffs are famously high on agriculture and commodities. On most industrial goods, they tend to be at the more modest end of the scale, typically between 4% and 10%. I will ask our officials to write to you with full details of what the tariffs might be on chemical products.

⁷ The Secretary of State subsequently clarified that "authorisations" should read "registrations".

Q29 The Chair: That would be very useful. Thank you, Secretary of State. When we first dealt with this subject under our previous committee structure, before you were Secretary of State, we were quite astounded by the fact that, in our opinion, Defra had hardly got anywhere with this portfolio. There has been a big movement, necessarily so. Part of the issue was the responsibility for the chemical industry being split between Defra and BEIS. How close are they now? Practically, what goes on? How do we make sure that those siloes do not reappear or continue to exist, not just in our run-up to the end of transition but in the new era? Give us some real, practical feedback on that.

George Eustice MP: BEIS and Defra have a number of areas of shared interest, not least on climate change, where we have a good track record of working very closely together. On this, there is a very clear division of responsibility. Defra takes the lead on regulation, particularly on the environmental side of chemicals. BEIS then has a very clear role as the sponsoring department for the Health and Safety Executive,⁸ but with an interest in the sector as an industry. There is a clear division of roles. We work very closely on these matters. I might leave it for the officials to say how much they work together on these issues.

The Chair: You obviously do not physically meet these days, but do you have regular weekly meetings?

Gabrielle Edwards: Jo and I speak very regularly. Our teams speak very regularly. To give an example, we are doing a huge amount of work at the moment on getting information and updated guidance out to business. Our team, the BEIS team and the HSE team are joined at the hip on this, with information going out, single sources and signposting, so that if someone is looking for regulatory information, the link is there and they can go straight in and see information about tariffs, border issues and that sort of thing. We are working in a really joined-up way. I hope Jo will agree with me.

Dr Jo Bray: May I echo that? The responsibility is split. My team takes an overview of the sector. We look at all issues, including competitiveness. Gabrielle's team leads on the regulatory aspects, but we work very closely together. Our teams are pretty much in daily contact. Gabrielle and I are in touch very regularly. We also have meetings of officials with all the affected departments. We bring in other departments, such as the Department for International Trade.

We carry that through to our dealings with industry. We are in continual touch with the sector, with industry, joining up where we need and bringing them together. As Gabrielle said, we have a huge programme of engagement. We have been engaging with them the whole way through the process. We had a series of events last year and we are doing the same this year. There is the added challenge of socially distancing, but we have a series of webinars planned. Guidance is being published. We

⁸ Richard Daniels and the Secretary of State subsequently clarified that the Health and Safety Executive is an Arms-Length Body of the Department for Work and Pensions.

are making sure that we are in touch with Treasury, HMRC and the Department for International Trade. Pretty much all departments have a role to play. It is really important that we work together and join up with industry on this.

The Chair: We have about 11 weeks left to get it right, so good luck on that. I understand that the House of Lords EU Committees will continue in existence until Easter next year, so we will have the opportunity to see how it has all turned out.

Secretary of State, can I thank you very much for coming in front of the Committee today? Thank you to Gabrielle, Jo and Richard as well. We very much appreciate you responding to our questions. This is a key industry and sector for the United Kingdom's success for the future. Like you, we want to make sure that success continues during this time of fundamental change. Thank you very much indeed for being with us.