HOUSE OF COMMONS

Environmental Audit Committee

Oral evidence: Progress in implementing UK REACH, HC 860

Wednesday 30 November 2022

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Watch the meeting

Members present: Philip Dunne (Chair); Duncan Baker; Barry Gardiner; Helen Hayes; Clive Lewis; Caroline Lucas; John McNally; Dr Matthew Offord; Claudia Webbe.

Environment, Food and Rural Affairs Member present: Sir Robert Goodwill

Questions 1-40

Witnesses

I: Rebecca Pow MP, Parliamentary Under-Secretary of State (Minister for Environmental Quality and Resilience), Department for Environment, Food and Rural Affairs; Amira Amzour, Deputy Director, Water Quality, Department for Environment, Food and Rural Affairs; Gabrielle Edwards, Deputy Director, Chemicals, Pesticides and Hazardous Waste, Department for Environment, Food and Rural Affairs; and Dr Richard Daniels, Director of Chemicals Regulation, Health and Safety Executive.

Examination of witnesses

Witnesses: Rebecca Pow MP, Amira Amzour, Gabrielle Edwards and Dr Richard Daniels.

Q1 **Chair:** Good afternoon and welcome to the Environmental Audit Committee, where we are pleased to be speaking to the Environment Minister, Rebecca Pow, recently reappointed to her post. She is a former member of this Committee, well known to us all.

The original objective of the meeting was primarily to cover an update of where the Department has got to in implementing the new UK REACH arrangements for chemical registration. We will focus most of our questions on that. As you are here and have such wide-ranging responsibilities, Minister, towards the end of the session we would like to ask you questions on some of the water issues—I know that you have been very involved in water quality and supply, which have become more topical this summer—and on where we are with the deposit return scheme, which also sits in your portfolio.

If you are content, I will be grateful if you could introduce the officials you brought with you.

Rebecca Pow: I am delighted to be here. I remember with gratefulness being on the Committee. I have two officials with me, one in my water team—but do you want to introduce yourselves?

Amira Amzour: Absolutely. Hello, all. I am Amira Amzour, Deputy Director of Water Quality at DEFRA.

Rebecca Pow: I also have one of my top officials on the REACH team—Gabrielle?

Gabrielle Edwards: I am Gabrielle Edwards, Deputy Director for Chemicals, Pesticides and Hazardous Waste in DEFRA.

Dr Daniels: I am Dr Richard Daniels. I am from the Health and Safety Executive. I am Director of the Chemicals Regulation Division.

Q2 **Chair:** Thank you. We are joined today by another former member of the Committee, Sir Robert Goodwill, who is guesting in his position as Chair of the Environment, Food and Rural Affairs Committee.

To kick off, it will be helpful, Minister, if you would give us an overview of where the Department has got to on establishing a replacement registration system for chemicals. You might want to get some help from your officials. You may recall—you may or may not have served on the Committee when we looked at this before—that we take quite an interest in the whole challenge of establishing a new system for chemicals registration. Before we left the European Union, we expressed some concerns that it would take quite a long time to implement the data requirements necessary to register independently, and so it has proved. It

will be helpful to have an update.

Rebecca Pow: I am pleased to give you an update, because a great deal has in fact happened, certainly since the Committee last heard from DEFRA. No one is pretending that this has not been a complicated issue to tackle. It is a complicated one, but I am delighted to say that I believe really positive progress has been made.

All the existing GB-EU REACH registrations were, as the Committee knows, originally grandfathered over from the EU system. So far, 6,000 companies have completed their initial notifications, which cover 22,000 chemicals. That is pretty significant. What they have to do next is to get all their data packages registered—that means that they then become fully registered. The current deadlines for that are 2023, 2025 and 2027.

Those were the deadlines they were given, but we were very well aware of the complexities for industry, and the team have been in really close liaison with the chemicals industry and run a consultation. Just this week, we announced that we will extend the transitional deadlines for three years, to 2026, 2028 and 2030. That will give more time for business and industry to register, which will enable us to work on an alternative transitional model. We are already in discussion with them—it is something they are very keen on. We will consult on the fully formed policy in 2023, with a view to legislating in 2024. I believe that announcement will be received positively.

We have worked closely with the Health and Safety Executive, and we have started a whole programme to evaluate the risk management of those chemicals through the UK REACH work programme. That is developing regulatory interventions through authorisations and restrictions—you might want to ask about that later—which is about chemicals of concern, which we might want to look into in more detail as to whether they should be used or not used anymore for various reasons.

What I want to stress is that the overarching aim is the same gold standard that we had for the chemicals regime in the EU—that is, it is about the highest level of protection for human health and for the environment in terms of what chemicals are being placed on the market. That has not changed at all. It remains an absolute priority. Similarly, the principles remain the same—no data, no market. That means that GB market access for a substance is denied unless it has been assessed and registered. One substance, one registration, and last-resort principles—for example, on animal testing and transparency at all costs—all remain absolutely critical.

Q3 **Chair:** We will come on to some of those issues that you touched on, in particular deadlines, in a moment. That is a helpful summary. I imagine the 22,000 chemicals that have been initially registered are all covered by the EU grandfathering arrangements. This may be a question for one of your colleagues. If a formulation is adapted or changed in any way, is that grandfathered as well, or does that have to go through the new process?

Gabrielle Edwards: The initial chemicals that have been notified into the UK system are simply those that were already in the EU system. They were either grandfathered across or they came through what was called the downstream user notification system, where the chemical was registered in the EU but that registration was not held by a UK-based company.

If they are then looking to bring into the UK chemicals that weren't brought through that system, there is an alternative approach of new registrations. We have had around 500 new registrations come in through that process as well. It is a very dynamic process of new chemicals, as they hit the market in the UK, or if they are completely novel substances, now coming into REACH, as well as having all the substances that were grandfathered across.

Q4 **Chair:** Are you aware of any chemicals that a company wanted to sell into the UK but haven't been able to because the transitional arrangements have not allowed that to happen yet?

Gabrielle Edwards: No, and that should not have been the case, because grandfathering was a very straightforward process. Legally, it happened at the point at the end of the transition period. If you had an EU registration, then you were brought into the UK system and that just had to be followed through with a technical notification. If anybody wants to put a new chemical on the market, the new substance registration process is relatively straightforward. It is not an approval system. It is simply a registration process, and so that should not be any barrier to anyone who wants to put a chemical on the market in this country.

Q5 **Chair:** Dr Daniels, the Committee expressed some concern when we were last looking at this as to whether the Health and Safety Executive would have the capacity to take on your new regulatory role. Can you give us your perspective on how you are coping so far and what kind of resource you had to take on board?

Dr Daniels: If I could take a little step back, because we regulate other chemicals under other regimes as well as REACH, so that I can give you the slightly bigger picture of that totality and then drill down into REACH. We have significantly recruited into HSE. The priority was to make sure that when we left the EU, we had functioning regimes in place—there was no cliff edge, there was nothing that fell off the market and there was no regulatory gap—and we achieved that at the point of day one.

In the HSE division I am responsible for, the main focus is about the supply of chemicals into the market and into the supply chain, in terms of assessment and usage, and putting conditions on their use subsequently. That is not just for chemicals that fall under REACH; biocides and pesticides as well fall under that umbrella. All of those regimes we have stood up.

That approach of engagement with industry—telling them what they needed to do—and continuity means that we achieved success on day one.

Coming on to the detail, as the Minister has said, with REACH, we have published work plans and are into our second year of operation. We achieved all of the grandfather rights registrations over. We have handled all of the inquiries—so, somebody saying, "Is this chemical already on your database? Can we connect people up?" We have dealt with new examples; the Minister and Gabrielle have outlined the sort of numbers we dealt with. We have also carried on regulating in terms of specific authorisations—those substances of most concern that need a specific control and permission from the regulator. We grandfathered over some authorisations, and we have issued some new ones.

In terms of staffing and resourcing, if I take you back to a position in September 2020, which may be when you were looking at this, there were around 240 people in CRD. That headcount now is 400, in terms of equivalent numbers. That has meant significant recruitment into the division, and we have upskilled those people, which again takes time. We have been supported through increased funding for that work. I think the scale and size of that increase is tremendous. By the end of the next work year—April 2024—we are aiming for 500. Those sorts of numbers were in the NAO Report, so I am sure you are aware of them.

When we were part of the EU, we had approximately 10 staff working on REACH. They were predominantly helping ECHA, the risk assessment committees and so on.

Q6 **Chair:** Did you say 10?

Dr Daniels: Ten. When we were a member state, we provided some support to the European Chemicals Agency and worked on work that was tasked out to us. We now have approximately 40 working on REACH in delivery and the system, and a further eight in enforcement, so we have gone from 10 to close to 50. We plan to recruit about another 10 over the next 12 months or so.

That is part of the picture, in terms of the resources that are available to us. We have supplemented that by setting up a panel of independent scientific experts. We have fully declared who they are on our website. They are 36 people who have specific expertise that we may need to call on if we want to supplement something that we do not have or if we wish to get a second opinion on a technical basis.

Of course, we also need to bear in mind that the Environment Agency is part of the mechanism to regulate under the agency. We are the agency in law, and we are supported by the Environment Agency, and similarly it has increased its size. So we are on a good and upward trajectory. It is not without its challenges, but hopefully that reassures the Committee that we have invested and will continue to do so.

Q7 **Helen Hayes:** Minister, you mentioned the alternative transitional registration model that the Government is working towards. Can you update the Committee on what progress there has been on developing the new model?

Rebecca Pow: As I said, a lot of discussion is in process with industry to see what they say. Of course, we are really mindful of the costs to them. One of the main aims is obviously to have a system that functions well, adheres to all the principles that I mentioned and is safe and so forth, but we are really mindful that we don't want to have to put industry through having to pay for data packages if they don't need to do that. That is really important. We do not want them to be charged for data that they have already registered and paid for. These are all things that we are working through. The detail will come out, and we will consult on it in 2023.

Q8 **Helen Hayes:** I understand the content that needs to be considered and dealt with by this process, but it has now been the best part of a year since your predecessor first floated this model. For the Committee's benefit, it would be helpful to understand the process and how it has been managed. A year seems to have drifted past, and we are not yet in a position where we can see the transitional model, and there does not appear to be any progress towards implementing it.

Rebecca Pow: I will bring in Gabrielle in a minute, but I would not say that a year has passed with nothing happening. I think a great deal has happened, particularly in terms of getting the whole system up and running, getting all those chemicals over and starting to register the data packages. The critical thing is that we have listened to industry, which is why we announced the extension in the gap in that they are going to get—the time—while we work on the alternative model. That allows them to work out how they are going to register their data packages.

Gabrielle Edwards: I can give you a bit of information about what we have been doing over the last year on the alternative transition work. This is really complex and it takes a long time. It is fair to say that, within our regulators, this is not an area where we traditionally have had a lot of experience, so just getting ourselves up the learning curve around this has taken a bit of time.

What we are trying to do is to look at this in two stages. First, what do we need in the way of hazard information and how could we get access to some of the hazard information about particular chemicals without industry having to buy those data packages? The HSE and EA have been developing sort of straw men for that and testing it with some companies who are actually trying out how they can do that and how much it costs them.

The second part, which I think is the particularly interesting and potentially very useful part for the UK, is to try to improve the information we have about the exposure to chemicals within this country, because we can have the hazard information, but unless we actually know how those chemicals are being used in this country, we have only part of the picture. Whatever information is available on, say, the EU's database, it will not have the GB-specific information. So working with companies to try to understand how they could improve the information they provide to the regulator on exposure is a key piece of this work.

We are developing those models. We are trying to test them out with industry. We are bringing in some additional support to try to make sure we really understand the deliverability for industry, the potential costs for industry, and how that lines up with what the regulator needs in order to be able to do its job. So we are making progress. We are keeping stakeholders very closely in the loop and trying to work with them as well as we can through this process.

Q9 **Helen Hayes:** I want to understand the work that has been done so far on cost. How do you imagine that the costs of this for businesses are going to compare with the previous costs of REACH?

Gabrielle Edwards: At the moment, we don't have a really clear view on that. We went into this with the clear aim that those costs would come down, but that is really what this testing process is about at the moment, because industry may not have to buy data packages, but potentially there are a lot of man hours in processing the information that is out there and trying to, for example, provide that UK-specific data. In some ways, there is a high cost in buying a data package, but that may be more straightforward than doing some of these rather more specific, GB-focused things that we are looking at at the moment. Really trying to understand that, to be able to answer that question, is what this process is about.

Q10 **Helen Hayes:** If the costs are higher, what will you do in that instance?

Gabrielle Edwards: That comes down to a policy decision about the existing model, the alternative mechanism or whether we have to look at something else, but at some point we are going to have to bring this transitional process to an end. We have always said that these costs are not going to disappear; this is essentially a separation from the EU cost. But undoubtedly, at some point a balance will have to be struck between the amount of cost that industry has to bear and the information that comes in to the UK regulator.

Q11 **Helen Hayes:** Minister, what would your approach be if this proved to be more expensive for businesses than the previous arrangements? How would Government respond to that?

Rebecca Pow: Well, we don't know the full information yet. We will have to wait till all this research has been carried out. We are obviously working very, very closely with industry. It would be far too early to give a view on that right now.

Q12 **Helen Hayes:** Thank you. This will be the final question from me. You talked about the extension of the transitional period in order, essentially, to ease the burden of the new registration on businesses and to give them more time to register chemicals. How are you ensuring, during that time, that there isn't any drop in protection for the environment? When reading the process and the justification for the process, it feels like a process that is about relieving an administrative burden on business. There is talk of a balance between that and the environment, but where is the watertight guarantee that environmental protection isn't dropping during this transitional period?

Rebecca Pow: Well, nothing has changed in terms of the importance of protecting the environment and protecting human health. That still is as it was before. We are working very closely with the Health and Safety Executive to ensure all those standards are maintained. The chemicals that have been grandfathered over are ones that were registered, quite clearly, in the EU. If it comes to light that there are any chemicals where there is more information or knowledge about growing concerns, that is where we will work with the Health and Safety Executive, and the EA and the HSE will do their evaluation processes to work through products such as that that might be a cause for concern. We have been doing that. There is no drop in standards—we want to make that clear to the public. Nothing has changed that.

Q13 **Chair:** Could I go back to the extension for a moment? I am not sure who is best placed to answer this—maybe Dr Daniels—but I think you, Minister, said that 22,000 chemicals had done the initial registration. Is the intent to progressively add to the registration process as companies provide the data? Is there a schedule that they must all meet individually for each chemical? How are you actually managing that process?

Dr Daniels: Perhaps I could take a step back and draw a distinction—I think the question was asked—between the registration and the control and enforcement. The concerns from industry and the costs were things that were already in existence in the EU, and were being traded and used in Great Britain at the point of exit. That is what the alternative transitional arrangement is looking at: how to best address that, in terms of working with industry and the cost that might be borne to re-register things that were already in existence in Europe.

If there is a new chemical—one that was not already in existence in the EU—that would go through the full REACH process of registration as a new chemical. The data packages and all the information would then have to be provided, as required by REACH. There may be people who were not using a chemical that existed in Europe but now wish to use it in Britain, so that is a new registration of an existing substance. Again, we do capture that and join things up.

In assisting the Committee, it is helpful to put these in boxes to join them up. There is a specific issue that was created on exit, which the alternative transitional registration is trying to address. Any new chemical that comes into Great Britain after that date goes through the full REACH process, as well as any new people coming in. The registration part is about ensuring that people supplying chemicals or manufacturing them know about the hazards of the chemicals that they are putting into the supply chain.

There are other elements of REACH that operate to control the standards of the chemicals of greatest concern and to look at where we should be focusing effort. We have lots of information on which we can target that. More broadly, in terms of other protection for chemicals—for example, use in the workplace—there are pre-existing regulations on the control of substances hazardous to health that ensure that the users of chemicals must do an assessment of the risk in terms of exposure. Again, it is helpful

to chunk the thinking on this, otherwise you are trying to navigate complex regulations.

Q14 **Chair:** Do you have a simple dashboard that you use for managing this transition process to show how many you have got in each of the different buckets that you identified?

Dr Daniels: Yes.

Q15 **Chair:** Would you be able to let us have that?

Dr Daniels: We will provide that after the meeting, in terms of what is falling into what and in terms of what is being registered as new, existing or transferred over. We will do that.

Q16 **Barry Gardiner:** Minister, you said that you have been speaking closely to industry but, if you were speaking closely to industry, we might not be doing what we are doing. Clearly, one of their biggest concerns is the absence of a data-sharing agreement on chemicals between the UK and the EU. What additional burden is that putting on companies and the Department? In terms of what you were saying, that "nothing has changed", if there are chemicals that are now presenting themselves in the EU and we have no data-sharing agreement, are we potentially exposed to a problem here before they are registered separately on the UK list?

Rebecca Pow: There are a lot of questions wound up in there—

Barry Gardiner: Questions you did not answer when responding to my colleague.

Rebecca Pow: Of course, it would have potentially been desirable to have been able to share all the data from the EU REACH system, but they were not amenable to that suggestion, hence we are setting up our own system. I think you were asking what if a new substance comes on the market in the EU and how we will then register it.

Q17 **Barry Gardiner:** I was asking whether there is potential exposure here, because of the time lag in our not being aware of it while we get the registration done appropriately here.

Rebecca Pow: I will get Gabrielle to answer that, but equally it could work the other way around. We, for example, are doing a piece of work on whether we should be banning or restricting the use of tattoo inks and lead ammunition. We ran our own consultation on that, and actually we got an awfully big response, with an awful lot of data, which we will look through ourselves to come up with our own conclusions about how those chemicals should be used. You could say that we are working out a more flexible approach, tailored to our own market and what chemicals are used for here, which might be quite different from how some of them are used there. I will bring Gabrielle in on whether we might miss a chemical—

Barry Gardiner: You implied that we might be in advance of the EU, which is absolutely true, but this Committee is concerned with the

protection of the environment here in the UK. That is the force of the question I put to you, but yes, I am interested in Ms Edwards' answer.

Gabrielle Edwards: To answer your specific question, if a new chemical comes on to the market in the EU, it will be registered in the EU; to come on to the market in the UK as a new substance, as Richard pointed out, registration would need to come as well—that is part of the no data, no market principle of REACH. Before that chemical comes on to the market in the UK, if it is a new substance, a registration has to come into the UK system. At the moment, our registration requirements are exactly the same as the EU's, so we anticipate that anyone putting a new chemical on to the market in the EU would send the same dossier to the EU as to us. So, for a new chemical, there is no issue.

Where this gets slightly confused is with the issue of transitional registration. For the transitional registration, the chemicals are not new; they are chemicals where the purpose of REACH means that, to a certain extent, it has done its job at the outset, because in registering with the EU, companies have done a lot of work to understand the risk of those chemicals and a lot of that information is available on the EU database. A lot is publicly available, if not all of it, so our regulators to some extent can look at that information.

Over time, that will change and the information will be updated, which is why the transitional registration issue is so important. However, for new substances, I do not think you ought to be concerned, because to access the market they will have to give us the same information as they have given to the EU.

Q18 **John Mc Nally:** I will take you back a wee while, Minister. This Committee visited Washington, although I cannot quite remember how long ago. On the REACH implications of Brexit, I cannot remember every conversation, but we were without doubt warned about any divergence from the gold standard of REACH, which was recognised as the best standard in the whole world. We were regularly reminded of that and of the differences between the terms "aligned" and "associated". That seems to be where we are now, but my question is about the divergence between the UK and the EU regulations, which we have touched on already. How likely is it, Minister, that the UK and EU approaches to the evaluation and appraisal of chemical products will diverge? If so, what are the likely costs to businesses of any regulatory divergence? We heard a lot about the extra costs at the Environmental Audit Committee quite a few years ago.

Rebecca Pow: Thank you for that. I know that this has been much talked about and worried about. The EU REACH was set up as the gold standard, but so too will our own system be. Our UK REACH will be similarly gold standard. I do not believe that there should be any cause for concern. There might be divergence in terms of flexibility, or decisions might be made at slightly different times, but there will not be any divergence in the fundamental principles and the fundamental guarantee that the safety and

protection of the environment and human health is absolutely paramount. That still stands. That won't change.

Similarly, the principles are the same, and I have run through them all: no data, no markets; the precautionary principle; and the last resort for animal testing. All those things will stand. There is no reason for them at all to change. What it will be is just our own independent system specifically tailored to our needs. I do not think that we should set hares running trying to suggest that anything will be different. I do not know whether Gabrielle wants to add to that.

Gabrielle Edwards: I don't have a huge amount to add. The Minister is absolutely right about timing. Inevitably, two regulatory systems will not take decisions at exactly the same time, so you get some temporal divergence. People talk about divergence from the EU; there are some chemicals that the EU may be taking action on under REACH, which we, advised by the HSE, may think are perfectly well controlled in this country under health and safety at work legislation. There may be some chemicals that are very rarely used in the UK. It is about being able to make those judgments about where we best use our resources. Does that mean a divergence in standards? No, it does not. It just means that we have decided to do some slightly different things or to control the same chemicals through slightly different routes.

Rebecca Pow: There is one other thing: through the Environment Act, we brought forward powers that will enable us to keep REACH up to date if we need to alter or change anything. I think that is very important.

Q19 **John Mc Nally:** There are lots of things going through my brain. In meetings with the chemical companies, they had lots of concerns about the different regulations being applied here. Possibly because of the EU regulations being slightly different from here, they said they would start offshoring their businesses abroad because it was less bother for them to do that and have everything made over there. That was another implication of the cost to businesses of importing these things. One in particular that was mentioned was a household product that everyone here would probably know, but I'm not going to give any comfort by announcing that name. Have you assessed—I assume that you have—the potential impact on the environment and on the public in the UK from any divergence in regulatory approaches? Have you carried out, or are you in the middle of carrying out, an impact assessment on the environment and the UK public?

Rebecca Pow: The thing is, these products would not be used if we thought they were wholesale going to have a terrible impact on the environment. That is not really related to the registering issue, and the principles of the highest protection for the environment and human health remain. Nothing is changing in that. The products that have been rolled over and that are being registered have gone through all their data packages and assessments already. They now just have to bring their data packages over here. This is not a system that is suddenly going to release some kind of danger to the environment.

Gabrielle Edwards: As I said earlier, we are entirely aligned with the EU on registration. In terms of that initial market access, there is no kind of barrier to UK market entry. In terms of individual regulatory decisions, industry will take a judgment about what the impact will be of getting potentially slightly out of step for one reason or another. It may provide industry, sometimes, with more flexibility if we have decided to go down a different route. Industry also sometimes will not be supportive of what is going on in the EU. They may feel that the EU position has potentially gone too far. You will see different things play out, depending on the different regulatory decisions that are taken on each side of the channel.

Q20 **John Mc Nally:** As an innocent spectator, that causes me a wee bit of alarm. I think we had this gold standard that was recognised throughout the world. When you talk, it sounds to me like there is already a divergence.

Gabrielle Edwards: There is not at the moment, because very few decisions have been taken, but we must be clear that we have two separate systems. As the Minister said, their principles are absolutely the same, but in a GB context, we will take decisions about the priorities that work for us, and about how we think it is best to address risks in the UK. That means that we will not always necessarily take exactly the same decision.

Q21 **John Mc Nally:** My next question is for you, Richard. In practice, what information sharing are you able to undertake—you touched on it a wee bit earlier—with the European Chemicals Agency in Helsinki?

Dr Daniels: At the moment, it would be fair to say that we are not back to the level of engagement that we had prior to EU exit. There are some low-level, technical discussions going on, but detailed engagement with the expert working groups is not yet back to a settled position, because of broader political circumstances between the UK and Europe. That is probably as much as I would want to say on the politics.

There are issues to be resolved to facilitate us having more routine dialogue with ECHA. That does not stop us seeing what is happening with ECHA, because it has a lot of information on its website. We are meeting counterparts in other forums. For example, in the United Nations, we are talking with European colleagues around some other regulations and proposals. We are still connected, but we are not part of, if you like, the working group network that we were in when we were part of Europe.

Q22 **John Mc Nally:** I think that almost aligns with what Barry was talking about earlier. How are you managing any of the risks that might arise from using these divergent methodologies? If you do not have access to all the databases, how do you know what risk you are managing?

Dr Daniels: We were very closely aligned with Europe, and we are two years from that, so we have a lot of the information that we had then. On the chemicals of higher concern, or those that Europe had specific controls on in terms of authorisation, we have brought those over into the UK. We have, in effect, already inherited a lot of information about the substances

of most concern—chemicals that harm people or the environment. It is from those sets, which we have because of the shared starting point, that we make choices as to where to put our effort. We monitor very closely what is happening, both in Europe—through ECHA—and more broadly across the world, to identify whether there are emerging risks or chemicals that we need to look at as a priority.

The Minister mentioned, for example, lead in ammunition and tattoo inks. Those are two areas that we are looking at very closely, because they were identified for Great Britain as being priority areas for regulatory review. There is a consultation at the moment about whether we should introduce restrictions for those. Through a regulatory management options analysis, we are also looking at the situation with PFAS—per- and polyfluoroalkyl substances, or "forever chemicals"—as a priority for where to put our effort. In other cases, we have said, "We do not believe that we need to start work on those at this point, because we already have controls in place in Britain, or those chemicals are not used in this country." From one perspective, we are in quite a good position: we can see what is going on and then make choices within that.

Let me just touch on the divergence issue in relation to a pesticide, which is a slightly different regime from REACH. You may be aware that a new active substance, cinmethylin, was recently authorised by HSE under the pesticides regime for use by farmers in controlling black-grass. We were about 18 months ahead of Europe in looking at the use of that active substance, and we issued the authorisation for the product a week after. We are probably three years ahead of Europe's looking at that. Again, there are opportunities. Rather than working sequentially, we can do things in parallel all together. Discussions with the company involved started in 2018 to see whether we could do things differently.

So there are circumstances when we will be ahead of Europe—we have been ahead of Europe—and that gives farmers and other users in Great Britain the advantage that they can access chemicals that they have not had access to before, and which they would not have had access to for several years had we still been part of Europe.

We can look at both ways to see how this is working, and that is part of the challenge that I have: how can we deliver a regulatory system that gives the assurance and reassurance on standards of protection for health, the environment and so on, but also genuinely look for the opportunities to do things better, quicker and smarter?

Q23 **Sir Robert Goodwill:** Dr Daniels, it is absolutely true what you say about the BASF product Luximo being licensed ahead of Europe. That product will be used in very large quantities, given the amount of black-grass that we have in this country, but is it not also the case that some pesticides for minor crops, where usage is quite small in the UK, have fallen off the pesticides regulations because it is not worthwhile for companies to get them registered? Is it possible there might be chemicals, either new or existing chemicals, that will be authorised in Europe because of the size of that market, which might not get authorised here because of the cost

of registration? In some cases, they could be more benign chemicals than the alternatives that we would have to use.

Dr Daniels: It is possible. In my engagement with industries, yes, they have expressed those sorts of concerns to me.

Q24 **Barry Gardiner:** Minister, the Environment Act, which you know very well indeed having spent so long on it, requires Ministers and officials to consider five environmental principles when formulating and implementing policy. As your starter for 10, would you like to name the five environmental principles?

Rebecca Pow: What is this? A-level? GCSE? The environmental principles still stand. There is the precautionary principle and the last resort principle. In this respect, we are saying, "No data, no market", which we are sticking to.

Q25 **Barry Gardiner:** That is not one of the five. We have integration, prevention, rectification at source, polluter pays and the precautionary principle. Those are in section 17(5). I am focused on the precautionary principle because earlier this year your Department consulted on a draft policy statement on how those principles should be interpreted. This Committee heard from the former Secretary of State about that. How is the Government's approach to the principles, particularly the precautionary principle, going to shape their approach to chemicals regulation? Is this not a point of possible divergence?

Rebecca Pow: We have said that we will publish the final policy statement on the principles, and you will see that in the coming weeks. The statement is very much about how the principles should be applied across Government, and how, when formulating policy in whatever Department, the principles have to be taken account of. That will apply whether it relates to chemicals in DEFRA or whether it is something to do with transport. Depending on the policy, you will have to look at that statement. Mr Gardiner, you will have to wait just a couple more weeks and then you will be able to read it.

Q26 **Barry Gardiner:** But we have you before us now, and we also heard from the former Secretary of State that he made the distinction between what he called a risk-based or a hazard-based approach. I can provide you with the quote that he gave at the time, but one of the things that stands out is where he says, "The EU does things where you assume that everything is a problem, and the answer to nearly every issue is 'no', because someone invokes the precautionary principle." He counterposed that to the United States' interpretation, which he characterised as a risk-based approach. Would you at least accept that if we go with what the former Secretary of State seemed to be advocating—the US approach to the precautionary principle rather than the EU approach—we could end up with very different outcomes indeed, and that would be the point of divergence that you so adeptly said earlier didn't exist?

Rebecca Pow: I would say that the fundamental importance is protecting the environment and protecting human health, but particularly protecting the environment.

Barry Gardiner: Nobody doubts that, Minister.

Rebecca Pow: What I would say is: just wait a couple more weeks and you will be able to read the policy statement yourself, and it will explain in detail how to interpret the principles and use them across Government in any policy. But overall, as the Environment Minister, my overriding view is that we have to protect the environment. We will not be taking untoward "risks". That is the whole thing that we are talking about today with REACH; we have to understand risks, but we also have to put protecting the environment and human health at the top.

Q27 **Barry Gardiner:** Nobody on this Committee or, I would imagine, in Parliament believes that it is not the target, the goal, the objective to protect the environment, and certainly, from what I know of you—I have seen your speeches in the House—I am sure it is a huge concern for you, Minister.

The question is this: if one throws open the question of how a principle should be interpreted, and if the former Secretary of State himself then counterposes two different ways of interpreting it—one of which is seen to be associated with the EU, which we have left, the other of which seems to be associated with the United States, which he seemed to aspire to be more like—then it brings in a different result at the end of the decision making, does it not? Otherwise, what would be the point of having the consultation about how to interpret it? If it made no difference, then there would be no point in having the consultation, would there?

Rebecca Pow: As I said, you will have to wait and read what we have said. I will bring Gabrielle in here. But equally, you know that when a policy is formulated and you have to take account of principles like that, if the Department making that policy wants to veer away from those principles, it has to make a very good case as to why.

Q28 **Barry Gardiner:** It is not about veering away from the principle; it is about the interpretation of the principle itself, as the former Secretary of State himself made very clear before this Committee.

Rebecca Pow: That is what I meant. Each Department will interpret it, and they will make their case. They will have to state whether a policy adheres to that. I will bring Gabrielle in quickly.

Gabrielle Edwards: I wonder whether it is worth bringing the discussion slightly more closely back to REACH. As I am sure you know, the precautionary principle is hardwired into REACH. It is also protected in our Environment Act powers. Without really understanding the context in which the remarks you are quoting were made, I think it is quite crude to say that the EU just takes a hazard-based approach. Actually, if you look at how REACH operates, it is much more subtle than that. You have to look at the processes within the EU, where they have both a risk

assessment committee and a socioeconomic assessment committee. There are processes in which you are always doing some of that trade-off. Yes, you look at the hazard, but you are also thinking about the risk.

When we are thinking about the alternative transition arrangements for the UK, that is one of the reasons why we are really interested in trying to get better information on exposure in the UK, so that you are really thinking about where the risks are and how you want to apply them, but with a good understanding of hazard. It is really complex, but I don't think that saying it is either hazard or risk reflects how this piece of legislation works.

Q29 **Barry Gardiner:** I entirely agree with you that what the former Secretary of State did was set out two stalls of people and then try to play one off against the other. None the less, there is a consultation. Richard, how is the precautionary principle being taken into account in the approach that the HSE is taking to its regulatory decisions under REACH?

Dr Daniels: There is the meta-precautionary principle, "Don't let a lack of science stop you doing something or investing," and there is the backdrop with REACH saying, "If in doubt, err on the precautionary side of it because of the potential risk." As Gabrielle said, it is a subtle process. We are doing the full REACH process of coming up with a technical opinion to look at the hazards, the exposure and so on, and then putting it in a socioeconomic case. As part of that formulation, we have to take into account what we know, what we do not know, the model, the uncertainties and the expert judgement. Yes, it is a science, but how big is the uncertainty and the gap? What would the impact be? We are rolling all those factors together in decisions that we make.

That is in the REACH context, but for the HSE—a body that will celebrate 50 years of regulation in health and safety in 2025—the approach to risk management, hazard and risk is marbled through most of our regulator activity, if not all of it. It is not unusual for us as a regulator to have to deal with these sorts of questions. If the Chair will allow me to digress slightly, we range from how we regulate very large chemical sites, which may be very hazardous but events are low frequency and therefore the risk is low, to how we regulate construction activities, where events are much more immediate. We have a lot of experience that we bring to bear in these sorts of judgments. The precautionary principle is the backbone, as well as the high standards of protection for the environment and human health.

I mentioned the REACH independent scientific expert pool; we can draw people from outside the HSE to give an independent view. If there are areas where we have a view, we consult the Environment Agency and we want another opinion to take that into the totality, we will do so. When we look at things such as restrictions—for example, as the Minister mentioned earlier, what should the approach to lead in ammunition be?—we put that out to public consultation. We put out our technical opinion and say, "This is what we think we are doing. Do other people have any other information or knowledge that can assist us in that?" Interestingly, on lead

in ammunition, we have received over 2,800 responses, while Europe received just over 300. There are obviously circumstances to explain why we received so many, but a lot of information is being fed in, and we will take a step back and review where we are. It is that totality of collecting and bringing in different views to reach a judgment. In the context of REACH, that would be a technical opinion—a recommendation—to DEFRA for a final decision to take everything in the round. I hope that reassures you that this is not a new thing for us at the HSE.

Barry Gardiner: Thank you; that is helpful.

Q30 **Dr Offord:** The Retained EU Law (Revocation and Reform) Bill would allow the REACH regulations to be revoked by the end of 2023 unless the Department takes action. You mentioned something in your introduction that I want to clarify. Did you say that REACH regulations will continue until 2026?

Rebecca Pow: I said that we were extending the dates by which the substances could be fully registered, with two-year gaps between '26, '28 and '30. We are giving companies longer to register the full data for the chemicals.

Q31 **Dr Offord:** Okay, so I misunderstood that. That's fine; I will reread the transcript. Can you confirm that you will be maintaining the REACH programme beyond 2023?

Rebecca Pow: Do you mean the EU REACH programme?

Dr Offord: Yes.

Rebecca Pow: Well, we are not getting rid of it suddenly. All those chemicals have already been grandfathered over into our system. Gabrielle can clarify this, but products that were already part way through being registered in Europe will still go through that process, and then we will be able to roll them over.

Gabrielle Edwards: If I am right, the question you are asking is are we going to allow REACH to sunset using the powers in the Bill. We are in the process, as is happening across Government, of analysing all pieces of retained EU law and decisions will be made, but everything we have said about ensuring that we are going to maintain environmental standards is the critical thing there.

Q32 **Dr Offord:** That's okay. I just ask simple questions because I am a simple person. To get that on the record is great. It is good to hear.

Rebecca Pow: Clearly we are going through all the EU retained law with a view to how we will deal with it: what we will bone fide retain; what we would like to improve, because there will be some; and potentially things that have been superseded by other things or we will supersede by other things. That large process is under way right now.

Q33 **Dr Offord:** That's great. I do not have an ulterior motive; I am just asking a simple question. You will know that the Environment Act allows

the Secretary of State to amend REACH regulations. Do you think there is enough power within the legislation to allow the current Secretary of State, the Member for Suffolk Coastal, to do that?

Rebecca Pow: There is a power within the Environment Act that enables changes to be made within REACH, but that is so that we can make sure that it is doing what we wanted it to do and keeping up to date, so something we feel is necessary can be done. That was why it was put into the Environment Act.

Gabrielle Edwards: We are expecting to use those powers in the Environment Act to extend the deadlines, for example, as we were talking about earlier. There are some limits to how we can use those powers because some elements of REACH, such the precautionary principle, are preserved; you can't change that through those powers. If we think about some of the things we might wish to do in the future, if we want to introduce the alternative transition mechanism, our expectation is that we would use those powers under the Environment Act to do that.

We are also looking more generally at REACH. There were some limits to what you could do using the withdrawal Act legislation to bring it across and make it operational in a UK context, so there may be some things that we want to streamline, for example. We have a project going at the moment to think about whether there are ways to make REACH more fit for UK circumstances. Again, our expectation is that those Environment Act powers will enable us to make any changes that we wish to make.

Q34 **Dr Offord:** When the current Secretary of State was a Minister she sat there and said—I am not going to quote things back to you—that she was very confident that we would be able to obtain associate membership of REACH, and clearly that has not happened.

Rebecca Pow: You'd better get her back in this seat.

Q35 **Dr Offord:** I am sure we will in the future, and she will be able to answer questions about why that was not achieved when she was in that role. There are some concerns about an additional system that the UK might operate by itself, around transparency, cost, and sharing information on the database. They are concerns that remain very live, and indeed I have friends who have raised questions with me about that. When do you think the Department will be able to set out its own policy on retained EU legislation and those issues it wishes to retain on the statute book?

Rebecca Pow: As I say, we are working on it now. I had a meeting just yesterday with all the teams about EU retained law and the many regulations in my particular portfolio. We are working as fast as possible through these different buckets, looking at what we are going to do with all the regulations, with a view to coming back fairly soon with our plans and our policies.

Q36 **Dr Offord:** How long is fairly soon?

Rebecca Pow: Well, it is fairly—*[Interruption.]*

Dr Offord: Saved by the bell, Minister.

Rebecca Pow: We have not set a date, but all the teams are working on it really hard, at speed.

Chair: We anticipate four votes. Unfortunately, we will have to call this discussion to a halt, which is extremely frustrating for all of us. If it is four votes, I don't think we will be able to come back, because it will take us an hour. We will have to postpone our other questions and put them to the Secretary of State, who is coming to see us in the new year. If it is only one vote, will you have time to come back, Minister?

Rebecca Pow: Can we talk about rivers when we come back?

Chair: Would you like to come back and do that?

Rebecca Pow: Why don't we come back for a quick half hour? I don't know what is in my diary.

Chair: If we can be quorate, we would like to do that. We will suspend and see how many votes we have. If you have the opportunity to come back, Minister, and colleagues are able to do so, we will resume.

Sitting suspended for Divisions in the House.

On resuming—

Q37 **Chair:** Thank you, Minister, for returning after that interlude. We had just concluded our questioning on UK REACH, and I would like to turn to one of your other important responsibilities: water quality. This morning, the Department announced that you are looking to receive the proceeds of water company fines. Can you tell the Committee what that means and how the proceeds of such fines will be used to improve water quality?

Rebecca Pow: Thank you very much for asking about that. I was looking forward to talking about it with the Committee. Today we announced that money that comes in from fines for pollution incidents will now go to DEFRA instead of the Treasury. They are what we call hypothecated funds, and they will be dispensed for projects that will benefit the environment and, in particular, improve water quality. I know that many colleagues are pushing for that—it was in the Conservative Environment Network's rivers manifesto. A lot of work has gone into it, and I am delighted because it is a very positive move.

It will be for things like revegetating riverbanks—planting them up with vegetation—which helps us do many things, such as stopping run-off, catching soil as it is washing off and helping to trap nutrients. It also includes projects like remeandering rivers—putting bends back into rivers. There are some really good examples of projects like that running through the Rivers Trust, for example. One of the things that contributes to poor water quality is what has happened to our river channels. A lot of hard landscaping—man-made work—has been done on river channels. If you

can put the meanders back, that serves a great purpose in delivering ecosystem services.

The money will be used for projects like that. Over £100 million has been received in funds from something like 56 prosecutions since 2015, so it is a significant amount of money. It is obviously just one thing in addition to all the other things we are doing as a Government to tackle water quality and put it right at the top of the agenda, and I am delighted that it is happening.

Q38 **Chair:** Earlier this year, the Environment Agency raised the cap on variable monetary penalties. The EA and Ofwat are undertaking investigations into, I think, 2,200 treatment works. They are investigating whether there have been either criminal or civil breaches of permit. What assumptions have you made about the extent of the fines that might arise from all this—*[Interruption.]* I don't believe it. We have another Division.

Rebecca Pow: Obviously, very serious investigation is under way—the most intense and detailed investigation we have ever had. Ofwat and the EA are involved. It came to light that many water companies were contravening their permits. Lots of them actually put their hands up and said, "Hold on a minute. We are using these storm overflows far more frequently than we have the permits for." We need real data for the actual prosecutions, and that is what is under way. It is a huge piece of work. Now we are working out how the fines might be raised. A piece of work is being done on that before we know the exact amounts.

Q39 **Chair:** When do you expect that you will be able to let the Committee know how you intend to allocate this money as and when it comes in? Obviously, we cannot predict either the amount or when it is going to arrive.

Rebecca Pow: We will let you know.

Amira Amzour: We will outline further details on the hypothecation and fines next year, and we will outline exactly what the cap will look like and the projection for fines in the future.

Q40 **Chair:** Could you write to the Committee to spell that out for us?

Rebecca Pow: I would be delighted.

Amira Amzour: Of course.

Chair: Thank you so much. I'm afraid I am going to have to suspend the sitting again, and we had better not come back because I know you have another meeting.