



HOUSE OF LORDS

Select Committee on the European Union

Energy and Environment Sub-Committee

Corrected oral evidence: The future of REACH regulations post-Brexit

Wednesday 27 June 2018

10.30 am

Watch the meeting

Members present: Lord Teverson (Chairman); Lord Cameron of Dillington; Viscount Hanworth; Lord Krebs; The Duke of Montrose; Lord Rooker; Lord Selkirk of Douglas; Baroness Sheehan; The Earl of Stair; Viscount Ullswater; Baroness Wilcox; Lord Young of Norwood Green.

Evidence Session No. 1

Heard in Public

Questions 1 - 12

Witnesses

[I](#): Roz Bulleid, Head of Climate, Energy and Environment Policy, EEF; Anita Lloyd, Legal Director, Squire Patton Boggs; Libby Peake, Senior policy adviser, Green Alliance; Silvia Segna, REACH Executive, Chemical Industries Association; Peter Smith, Executive Director for Product Stewardship, Cefic.

Examination of witnesses

Roz Bulleid, Anita Lloyd, Libby Peake, Silvia Segna and Peter Smith.

Q1 The Chairman: Friends and colleagues, I open this public meeting. I will make some parish-pump notices. Obviously, this is a public meeting. It is being webcast. It is also being transcribed. We will send a copy of the transcript to witnesses. If there is anything that is not right, please come back to us. I ask Members to declare any interests they have. This session is looking at the future of the REACH regulations post-Brexit. We looked very briefly at the REACH regulations for our Brexit and environment report but we wanted to look into this now, particularly given that the Government have slightly changed their position on some of these areas. I will ask Members to introduce themselves with one sentence. Then I will ask our witnesses to say who they are and give a two-minute introduction of how they see this subject. Then we will open it out to questions. Lord Hanworth, would you like to start?

Viscount Hanworth: I am Stephen Pollock. I sit on the Labour Benches. I am an academic mathematician.

Baroness Sheehan: I am Shas Sheehan, Liberal Democrat Peer.

Lord Krebs: I am John Krebs. I am a Cross-Bencher and an academic from Oxford University.

Lord Cameron of Dillington: I am Ewen Cameron. I sit on the Cross Benches. I am a farmer and landowner and I chair the Centre for Ecology and Hydrology at Wallingford.

Viscount Ullswater: I am Nick Ullswater. I am a Conservative Peer. I was at one time Minister of State in the Department of the Environment. I am a trustee of a landed estate in Cumbria.

Baroness Wilcox: I am Judith Wilcox. I am a Conservative. I, too, was a Minister for finance and business. I come from a fishing family—my family traded in fish—and I am president of the National Consumer Council.

Jennifer Mills: I am the policy analyst for the Committee.

The Chairman: Robin Teverson. I chair this Committee. I am a Liberal Democrat.

Alex McMillan: I am the clerk of the Committee.

The Earl of Stair: Jamie Stair. I am a Cross-Bencher and I have interests in agriculture and land management in Scotland.

The Duke of Montrose: Seamus Montrose. I have a hill farm and was president of the National Sheep Association.

Lord Rooker: Jeff Rooker. I was a Minister under Tony Blair and Gordon Brown. The relevance for this is that REACH was signed off on my watch

at Defra. It was one of the rare visits I made to Brussels in 2006.

Lord Young of Norwood Green: Tony Young. I am a Labour Peer, previously a junior Minister in Gordon Brown's Government, dealing mainly with skills and employment.

Lord Selkirk of Douglas: James Selkirk. I am a Tory. I was a Minister for the environment for five years and I have a small interest in a family company with pockets of land in the west of Scotland.

The Chairman: Perhaps we can come to our witnesses. Silvia, please tell us who you are and give your introductory comments.

Silvia Segna: Good morning. I am REACH executive at the Chemical Industries Association. I look after the Association's policy work on REACH and provide advice to member companies on complying with this piece of legislation. The Chemical Industries Association represents UK chemical and pharmaceutical manufacturing businesses. The sector is the largest exporter of manufactured goods in the UK, with annual exports of around £50 billion. We are a foundation industry and our companies make products that are essential components in vital medicines, food and drink, clean water, and essential building blocks for other sectors such as aerospace, life sciences and automotive.

REACH is a key regulation that the chemical sector must comply with in order to manufacture, import and trade chemicals within the EU. It is one of the largest regulations ever produced by the EU and our member companies are continuing to invest heavily in compliance. With 60% of UK chemical exports going to the EU and 75% of imports coming from the EU, there is a commercial imperative in relation to market access.

Staying in REACH would be the only option to avoid additional costs and administrative burdens for companies in the UK and those in the EU 27. Such an outcome would also avoid the need to set up or expand separate institutions in the UK, which could be costly for the UK taxpayer and the chemical industry itself. A continued UK presence in European agency committees supporting the future development of EU legislation would also strengthen opportunities for proportionate decision-making.

Depending on the outcome of the Brexit negotiations, the UK may have to develop its own chemical management regulation outside REACH. In this scenario, UK companies face significant uncertainty about the future of their registrations, authorisations and investment. Our companies fear that under a UK REACH, they may end up having to replicate multiple registrations in the UK for the products that they make and buy from the EU.

Should we be out of REACH post-Brexit, it will be vital to ensure that registrations do not become invalid. Also, a process would need to be established to avoid re-registration in the EU and to avoid the requirement for repeat and additional registrations in the UK. This will be essential to protect the competitiveness of the UK chemical industry.

Roz Bulleid: Thank you, Lord Chairman, for the invitation to be here today.

I am head of climate, energy and environment policy at EEF. We are the manufacturers' organisation. We represent more than 5,000 UK manufacturers across a range of sectors. We have some membership in the chemical sector, but we also represent metals processing and mechanical engineering through to food and drink production. We have companies of a range of sizes.

Chemicals are key to our sector. Some of the parts that our members make or use require tens of substances to manufacture. There might not be the visibility for those at the far end of the supply chain about exactly what substances are used. It may not be apparent where those substances come from. In some cases there is even commercial confidentiality in that formulations are used but they have absolutely no idea what is in them. They are very exposed to any changes in the Regulation, particularly sectors such as aerospace and defence, which are very highly regulated and cannot switch chemicals or suppliers very easily.

Some of our members register substances. About 15% are involved on that side. They also have authorisations. They are subject to the restrictions—the bans under REACH—and all the rules on information sharing. Even those that are not in the chemicals sector are highly affected by REACH, and chemicals regulation generally.

There was a lot of concern initially about the cost of REACH. It is no secret that some of industry was concerned initially. Given the huge sunk costs, how far we have got and the fact that lots of other countries around the world are moving towards similar regimes, we would be very concerned about taking a different approach. We see no benefit in a race to the bottom. We do not want to make multiple products for multiple markets. The key thing for our members is enabling smooth trade and competitiveness.

As we have already heard, UK-held registrations and authorisations may be invalidated immediately at the point of Brexit. Equally, the UK might not recognise the registrations and authorisations made by EU firms post-Brexit. That creates both short-term and long-term issues for us. Some of our members are very concerned about immediate supply chain disruptions at the point of Brexit, particularly in a no-deal scenario. As we have heard in the past few days, these supply chains are very complex and cross-channel for some of these sectors. With very low visibility, there is a high risk of interruption as a result of Brexit.

Even if the UK decides to take a lenient approach, if the EU does not take a lenient approach or decides not to recognise existing registrations by UK firms, parts could be held up in Europe. Substances used for servicing could also be affected, which could be a real issue.

In the long term, most of our members have grave concerns about a dual regulatory system and feel that it would add to the costs and complications of compliance, particularly over time as the systems may diverge.

To sum up, there are multiple different scenarios, and I can see that at the moment it might be hard for Defra to plan for a particular one, given the negotiations that are ongoing. But in each scenario a huge amount of preparatory work needs to be done and fixes need to be developed urgently. An implementation period would help, but there is more that needs to be dealt with.

Anita Lloyd: Good morning. I am a lawyer with Squire Patton Boggs. I specialise in environmental law, which includes chemical regulation. I advise companies both inside and outside the EU on compliance with EU chemical regulation, most notably REACH. There are very many legal challenges associated with REACH in the context of Brexit. For the purposes of this introduction, I have picked three that I find particularly legally challenging.

The first one has already been mentioned: the potential invalidity of UK company registrations or authorisations and the impact that could have on supply chains. REACH works on a whole-supply chain basis whereby people at the top of the supply chain may have registrations and authorisations that benefit those lower down in the supply chain throughout the EU. The chemical sector tends to be at the top of the supply chain. If the registrations or authorisations of UK companies become invalid on Brexit, there could be serious ramifications down the supply chain and serious interruptions to the many billions of pounds' worth of trade in chemicals between the UK and the EU.

My second point is about data sharing. REACH works on the basis of one registration for one substance, so companies group together and share data to avoid unnecessary testing and duplications. There are also data-sharing agreements between these groups of companies which supplement the Regulation. I can envisage that either through the Regulation or those data-sharing agreements there could be scenarios where UK companies that have invested heavily in REACH, and data access, can no longer use that data outside of EU REACH: they might not be able to use it for a UK REACH system. Equally, I can see that EU companies may struggle to get access to UK-owned data that they rely on for their own dossiers.

Finally, my third point is: what will UK REACH look like legally, and how could it connect to EU REACH? There are so many different possibilities and options here. Things that have been mooted include: the grandfathering of existing authorisations and registrations so that there is mutual recognition of those that exist on Brexit day; continued access to ECHA's IT platform; and continued involvement in ECHA's committees. But any and all of those things will require specific agreements and legislative measures, at both EU and UK level, in order to be implemented.

The Chairman: That is a pretty full agenda. That is excellent. Thank you, Anita.

Peter Smith: I am Executive Director at Cefic, the European chemical association. We represent all the companies across Europe. I am a chemist by education and spent most of my professional career—25-plus years—in research and development in the product development of consumer goods, in the fast-moving consumer goods business. Since then, for the past six or seven years, I have been working at Cefic, in charge of product stewardship. For the purposes of today's discussion, we should think of product stewardship as the correct implementation of the regulations in Europe for our companies. I have one other role, which I will focus on if it would help the Committee: I sit on the management board of the European Chemicals Agency—ECHA—in Helsinki. I am the single industry representative there.

At Cefic we believe that the interests of industry, and more generally of citizens at large, would be benefited if the UK could stay closely in touch with REACH and operating with the Chemicals Agency in Helsinki. If that was not the case, I am sure we would inevitably incur the sorts of burdens that you have heard about already. I will not repeat them. They are real.

Why is it important to have continued co-operation between the UK and the Chemicals Agency in Helsinki? For me, there are a couple of reasons. You have already heard about the first: we have invested heavily in REACH, and for at least one member of the group who has a memory going back to 2006 on this the industry has spent 10 or 12 years developing this database in Helsinki. It is now an outstanding database. We passed the final phase of registration about a week ago. It's something that I do not think exists anywhere else in the world. I would also point out that the UK has done an awful lot to contribute to that. This is not a single Member State effort, this is everybody's effort.

To give you a flavour of what is going on there, now we know what chemicals are sold in Europe I have every belief that the co-operation between industry and the Chemicals Association will now follow that up and ensure that all the uses are safe. It is to the benefit of the environment and all citizens that we know which substances we use. We know that chemicals have potentially harmful effects if not managed correctly, and I believe that this organisation that we have created, which now has some 600 people in Helsinki, is the best organisation in the world to ensure that we continue to offer the benefits of chemicals while maintaining safety for the general public and the environment. That is why it is important.

I will spend two seconds on what would happen if the UK was to break away from this.

The Chairman: Very briefly.

Peter Smith: I can only assume that we will end up having to create something in the UK that does the same job, basically. I cannot imagine that it will have other information or do it better, so it would be a cost. That's even if you were somehow to transpose the REACH regulation into the UK. I do not think you would be in a better position. We have done all the work for 10 years.

My final point is that Cefic has just made a public commitment to continue to work more closely with ECHA to ensure that we maintain the knowledge base as it is and the safety of the population and of the environment.

Libby Peake: I am from the Green Alliance, which is an independent charity and think tank working on environmental matters. We also co-ordinate the Greener UK coalition, which is a group of 13 major environmental organisations in the UK aiming to ensure that Brexit is as green as possible and that the environment is protected through the process. I am very pleased to be here today representing the wider environmental movement, but I am happy to be going last because I think that the previous statements show how much agreement—near-universal agreement—there is that remaining in REACH is by far the preferable option for the UK as we exit the European Union.

As we have heard, REACH is a world-leading system. It is the most comprehensive database of chemicals in the world. There is near-universal agreement among businesses, environmental charities, health organisations and animal rights organisations that remaining in REACH would provide the best outcome for businesses to avoid burdening them with additional costs and bureaucracy, and for human health and the environment—and, indeed, animal health.

To that end, we welcome the Government's changing stance, including the Prime Minister's assertion in her Mansion House speech that the UK will seek associate membership of REACH. We also welcome Suella Braverman's confirmation that the UK could potentially accept ECJ jurisdiction in this area, although that has not filtered through into official government policy.

For the purposes of this inquiry, though, it is worth remembering that it is not just up to the UK. While the chemical industry in Europe—I was going to bring in Cefic—wants regulatory co-operation, the EU's Article 50 Task Force has officially said in a Q&A with Cefic that EU agencies, including ECHA, are part and parcel of the Single Market. That reiterates the stance that the UK cannot cherry pick when it comes to accessing the Single Market. But we believe that it is in everyone's interests to maintain high chemical standards, and to that end we would like to encourage the Government to make as much effort as possible to gain continued access to REACH.

Q2 **The Chairman:** Thank you all very much. I stress that we are also interested in hearing about any benefits from Brexit, if you see them, in relation to chemicals.

Just to be absolutely clear, Roz and Anita, you mentioned disruption and deregistration in particular. When we become a third country, never mind if there is no deal—say there is just an ordinary Canada-style or Ukraine-style free trade agreement—would all the registrations that we have had still fall away? Naively, I always think that if these chemicals have been registered, they are registered for ever and if you use them they are okay, but I am being very stupid on that, am I? It is not as easy as that.

Anita Lloyd: Based on REACH's legal text, in order to have a registration you have to be an EU legal entity. That is the nub of it. Post Brexit, the UK company with REACH registration will no longer be an EU legal entity. Therefore, it can no longer have an EU REACH registration. It is as simple as that, really.

Roz Bulleid: The substance will still be registered, so some people will be able to put it on the market, but the UK registrants will not.

The Chairman: Okay.

Roz Bulleid: There are some solutions. In some circumstances, registrations and authorisations can be moved to EU entities. However, that will leave those companies without registration in the UK if the UK requires it or something similar.

There are also anomalies—situations where it is a lot harder. If you are selling a formulation, for instance, you do not have the registration yourself for the mixture of chemicals and you need to persuade all your suppliers to move them. I might get this wrong—and there are some good mapping exercises appearing—but if you are an importer with an authorisation that applies to your supply chain, you cannot move that directly to the EU at the moment, as far as I understand.

Peter Smith: Briefly, because Roz has partly answered this question, the multinational companies in our network tell me that they are looking at where they have registered and whether they will just change the legal entity to an EU-based legal entity. That is one thing that is possible. Of course, whichever way they look at it, that leaves a smaller enterprise that is based in only one jurisdiction, and looking to export from the continent into the UK or vice versa, left in some difficulty.

Coming back to the Chemicals Agency, just because it is fresh in my memory, we have just discovered that there are 21,000 chemicals in circulation in Europe. That is the outcome of the latest work. Of those, 5,000 seem to have originated from the UK. You mentioned the downstream user; when I was as a formulator, I did not think, I had 21,000 chemicals to work with. If I have only the ones, say, that the UK has registered from a UK entity, I will now have only 5,000.

The Chairman: Post Brexit, though, within the EU, would those companies still be able to use those chemicals?

Peter Smith: Yes, because they are still in ECHA. They have full access. Well, they might lose the 5,000, they might have to put that 5,000 on to

another legal entity, but you would be looking in the UK at trying to get another 15,000 back that did not originate from UK-sourced registrations. You can use a chemical because someone else in the EU has registered it for the EU. That is what I am getting at.

Libby Peake: Just to reiterate, it would be possible to shift the registrations on to an EU entity, but that would obviously be an additional burden on businesses, which would have to find and pay for that to happen. Also, it is not necessarily up to us, because ECHA has said that it will regard those registrations as non-existent. So even if we see the benefits of having those registrations, and they can potentially see the benefits of sharing information, they have said officially that they will regard those as non-existent on exit day.

The Earl of Stair: Just to clarify the points that you just made, are you saying that the chemicals that are currently registered under REACH at the moment will fall away and become totally invalid post Brexit? Or, as of now—June—if a chemical is registered that is acceptable throughout the EU, that will still be permitted to be used, or will it just fall away completely and become invalid?

Anita Lloyd: It is very unlikely to fall away completely and be invalid unless the only registrants of that substance are UK companies. It is more likely that there will be a joint registration, which will involve companies from different EU Member States. There may be issues regarding needing to have a new lead registrant, if the lead registrant was from the UK; that is not particularly difficult to sort out. But for the UK companies that have joined in that joint registration, their registrations will no longer be valid, so they will no longer be able to place those substances on the EU market.

The Earl of Stair: But they will if its already registered in Europe as well.

Anita Lloyd: The UK company then falls outside the EU, so if the UK company wants to sell that chemical into the EU to an existing customer, that existing customer now becomes an importer. The main people who have to register chemicals in the EU are manufacturers and importers.

Let us say that there is an importer in France and a manufacturer in the UK. At the moment, that manufacturer has a registration, they can sell to the company in France, there are no issues. The company in France is a downstream user, so they do not need to register. Post Brexit, that UK manufacturer is outside the EU, so the downstream user in France becomes an importer with the primary duty of registration. Either that importer in France will have to have its own REACH registration, which will involve joining the joint dossier and paying for the data-sharing rights, or the UK company could appoint another company in the EU as its representative, which would mean in effect that the downstream user remains a downstream user. Again, there is an extra cost and a duplication of activity associated with the appointment of that only representative.

The Earl of Stair: So the chemical has not changed in its type, structure or use.

Anita Lloyd: No, it is the supply chain that has changed.

Viscount Ullswater: It is purely registration. That is what you are saying.

Anita Lloyd: Yes. In effect, you have to duplicate registration. The UK company could not transfer its registration very easily. There would have to be a new registration, by the French importer in this case or by another legal entity in the EU that was appointed as the representative of the UK company. So you have a repeat registration and a repeat payment for access to data. I hope that helps.

Baroness Sheehan: Just on this issue, is there any evidence that manufacturers in the UK are already trying to put safeguards in place and identify entities in the EU that could take on this role for them?

Roz Bulleid: Some of our members, the ones with long, complex supply chains that are particularly sensitive and forward thinking on this, are definitely doing quite a lot of mapping of risks, but even then it is a big exercise. In the past when we have had to make sure that whole supply chains are aware of the duties under REACH, we have had at least a year's warning. If everyone is suddenly required to galvanise supply chains to act and reregister at short notice, that could be a big problem.

Silvia Segna: The contingency measures that companies can foresee also depend on their specific role in REACH—whether, for instance, they are chemical manufacturers or importers of chemicals, or if they are the only representatives in the UK of non-EU chemical manufacturers. So there may be different actions that they need to consider at this stage.

Chemical manufacturers could, of course, now consider who in future could represent them in the European Union. However, they are not in a position to think, for example, about transferring any registration in future, because they need the registrations here in the UK to be able to continue complying with REACH, because it is still a legal requirement in the UK.¹

Then there is the issue for importers, which are in a very difficult situation, because post Brexit they will not be allowed to appoint an only representative in the European Union because there are limitations that come from the legal text of REACH. Only non-EU manufacturers, formulators or producers of articles can appoint only representatives.

Finally, there is the issue for companies here in the UK that have a role as only representatives of non-EU manufacturers. They will not be able to continue in their role post Brexit, because only representatives will need

¹ Note by witness: the witness subsequently clarified that she meant that manufacturers cannot transfer their registrations now as, whilst REACH still applies in the UK, they need them to continue to manufacture in the UK.

to be based in the European Union for REACH purposes. So they may have a huge challenge to transfer all the registrations. For example, a leading chemical speciality company has obtained hundreds of registrations. It has 300 registrations that may be affected by Brexit. They need to consider how to transfer these registrations to a potential new only representative based in the European Union. We have been told that they would need one person in the existing regulatory affairs team working full time for at least a year just to take up the administrative work to transfer these registrations, with a cost that could go up to £100,000. We also need to consider that it would not just be an administrative task. It would need to be done through the IT system put in place by the agency and there would be a lot of paperwork. They would also have to consider whether rights could be transferred to the potential new legal entity in the EU.

Baroness Sheehan: Just so that I am clear, you are talking about representatives in the EU, so am I right in thinking that the manufacturing base could remain in the UK and it is just paperwork that is going to take that long?

Silvia Segna: It will depend. Of course, manufacturing in the UK can remain in the UK, but the imports into the European Union will need to comply with REACH. So we will have to set up a second place to be able to continue to trade. The time that will be needed to do this task will be essential. The company that I mentioned decided that it will need at least one year just to transfer the registrations. This may become critical, for instance, if we do not have a transition. It will be very important to have a transition during which we can maintain the status quo. We will need to know as soon as possible whether we will be in or out of REACH and specifically what the new legislation in the UK will require.

The Chairman: Having understood that as well as we can, we move on to Viscount Hanworth. I also have Lord Cameron, Lord Rooker and Lord Young, so if we could start to get some momentum, that would be good.

Q3 **Viscount Hanworth:** How strong is the incentive for the European Union to allow us to continue to be associated with REACH? For example, do we have ownership of a significant proportion of the information that is essential to REACH? Do we contribute significantly to the personnel of REACH? Finally, what sort of representations might have come from the other European Union members of REACH to retain us and to allow us to have access?

The Chairman: Peter, would you like to take us through that fairly briefly?

Peter Smith: I do not know whether I can take you through all of it, but I can share the little that I know with you. As was said earlier, if you are looking at how non-EU manufacturers interacts with the EU, they go through these organisations called only representatives, or could have an importer. When we have looked at the REACH registrations, the UK's contribution is second only to that of Germany in providing that landing

place for non-EU manufacturers into the EU. So, yes, the UK's contribution has been disproportionate in helping non-EU manufacturers bring their products into the EU—disproportionate versus its manufacturing base. It has contributed in that way.

Viscount Hanworth: Could we play hardball in extremis to say that we would not give our information?

Lord Cameron of Dillington: Is ECHA on side? Is ECHA trying to support our continued involvement?

Peter Smith: I am not sure I can speak on behalf of ECHA either.

Lord Cameron of Dillington: You are on the board.

Peter Smith: On this topic, there is no position. I cannot add more than that. ECHA just has to prepare for the case where the UK information is no longer part of its dataset. That is the worst-case scenario and all it can do in effect at the moment.

Viscount Hanworth: So we have ownership of a significant amount of the information? Does it belong to us or is it available to REACH in any circumstances?

Peter Smith: This is an important point, which comes back to what I see as the critical thing about what we have achieved in REACH and with ECHA: this knowledge base, which is available to everyone in the EU. The moment you break from REACH and ECHA, that dataset is no longer accessible to the UK authorities.

Viscount Hanworth: And the converse?

Peter Smith: Obviously you can access through your own systems, which you will have to set up, I suppose.

Viscount Hanworth: I mean the access of the European Union to the information that we have contributed.

Peter Smith: It is already there.

Viscount Hanworth: It is already there, so there no incentive on that basis.

Peter Smith: No, sorry.

Q4

Lord Cameron of Dillington: My question is slightly different. We are told that Switzerland and Turkey mirror the REACH organisation. How does this work and is this a possible option for the UK?

Anita Lloyd: I have looked at Switzerland in particular, and know a little bit about Turkey. Turkey is probably more straightforward. Turkey has its own regime, which in effect mirrors REACH. It is very, very similar to REACH, but there is no direct link or mutual recognition. It is just that Turkey aims for the same sort of regulatory regime.

I understand that Switzerland has more than 100 bilateral agreements with the EU, but none of them relates to REACH. Again, Switzerland largely mirrors aspects of REACH in its own regime, and it recognises REACH authorisations and restrictions in its own system, but it does not work the other way round.

Also, Switzerland does not have a regime that requires registration of existing substances in the same way the EU does. Switzerland mirrors the EU to an extent, but it is a one-way mirror. If Switzerland is sending things to the EU, it still has to have an only representative in the EU or the EU importer will have the registration duties. Switzerland does have a mutual recognition agreement with the EU about the biocidal products Regulation, and various others, so there is some precedent for a more fulsome mutual recognition arrangement, but my understanding is that there is no such agreement anywhere with respect to REACH except for the EEA—Norway, Liechtenstein, Iceland—arrangement whereby they have full membership of REACH. However, they still do not have the right to vote on the REACH measurements.

Libby Peake: It is also worth noting that Switzerland briefly tried to open negotiations to join REACH. It is fairly difficult to find out exactly why those negotiations fell through. As far as we can tell publicly, it was probably because Switzerland was not willing to recognise the jurisdiction of the ECJ. If we want associate membership of REACH or to maintain access to REACH, given Switzerland's experience, it is likely we will have to adhere to three different demands from the European Union. One is that we would have to follow fully all the decisions made by REACH without any representation on the board. Another is that we would have to implement other chemicals-related legislation from the EU, including laws on factory pollution and workers' health. Finally, we would have to accept ECJ jurisdiction or something like EFTA, because REACH does allow the EEA countries to participate in REACH.

The Chairman: Has the ECJ ever been brought into REACH regulations? Sometimes these barriers are theoretical, such as with Euratom: nothing has ever gone to the ECJ even though it is theoretically under its jurisdiction. Has there been a case?

Roz Bulleid: As far as I am aware, the ECJ does rule on REACH. Anita would know how regularly.

Anita Lloyd: I can give you an example. Under REACH there is a concept of articles—products rather than chemicals—and different EU jurisdictions had different interpretations of what an article was. An article can be complex. It could be composed of several components that themselves could be articles. France had one interpretation, the UK had another. The European Court of Justice ultimately determined what an article was for those purposes.

Roz Bulleid: Briefly, on that point and on what you said about benefits, with a mirror system you could see some divergence. Some of our members have been affected by particular rulings on substances and

think there would be an advantage in having a separate system that could be a bit more flexible. But, if you look across industry as a whole, the additional costs must outweigh those small cases and individual cases where there would be a benefit from flexibility.

Silvia Segna: I want to complement the answer to the question on Switzerland. We have been looking at the agreement between Switzerland and the European Union on biocides. Actually, our member companies that work in the biocides sector would welcome a similar agreement, because it would allow them to continue to be part of the EU process and ensure that their operations would not be disrupted by Brexit.

The example of how specifically biocidal active substances are approved in the EU and how the Swiss scheme responded to that could be used as an example for the UK Government to consider for the potential future relationship with the European Union. Of course, we do not know whether it will be open to the UK, because that would depend on the broader negotiating objective.

The Chairman: Thank you, that is very useful.

Viscount Ullswater: I have a supplementary question for Anita. You have talked about mutual recognition. That would mean that we would have to have a mirror registration here of everything that we have with REACH at the moment.

Anita Lloyd: Yes, that is the principle.

Viscount Ullswater: So we would have to set up a mirror organisation to REACH in this country.

Anita Lloyd: Yes, if we were to go down that route. That is what mutual recognition means: you have your own scheme, but you have an agreement that says, "We recognise yours and you recognise ours". There are other structures whereby we could not have a mirror regime but we would somehow remain a member of REACH – not have our own regime and still use REACH. There is a possible structure where you could have that, but at the moment we are being told quite firmly that that is not a possibility.

The Chairman: I am keen to move on. Peter, you wanted to comment.

Peter Smith: I just want to note that the Swiss situation is unfortunately a bit piecemeal, even down to the ECHA level, because of all these bilateral agreements. The Swiss just do little pieces. In another piece of legislation referring to the labelling of substances for their hazardous properties, for example, they are allowed to operate in the helpdesk with ECHA but only because they have the same system for these labelling operations. They also belong to the UN's global system, so for that piece of work they are allowed in. But then they are not on the management board. It really is piecemeal with Switzerland.

Q5 Lord Rooker: I have a couple of questions. I hope the first will knock a red herring on the head. With the 21,000 chemicals that are registered, it is self-evident that not every country uses all the chemicals. I want you to be able to say that it would not be possible to compartmentalise, because chemicals are used for manufacturing, for research and all kinds of things. It is no good someone saying, "We can split off 5,000 or 15,000 into different regimes". In other words, there has to be movement. Perhaps you could confirm that.

My second question is a thorny one. Can you talk to us about the issue of chemicals on the island of Ireland?

Peter Smith: I can try to answer the first question. I do not know what I can say about the second, because I do not feel qualified to speak on the border situation.

On the question of the substances and where they are, I cannot tell you how many substances are used in a given country. We know that there are 21,000 across the EU. We also know that when we look at other large regions we get indications that in the US it is about 18,000. Canada has done an assessment and it is something like that. So it seems that a modern society operates with something like that many chemicals. Today we are not thinking about which ones are where inside the EU, so it does not matter where you get them from. If you were restricted to ones you have allowed, you should bear in mind that there is nothing to stop the UK saying, "We can allow all the others as well. You don't have to give us any data. We've heard that ECHA has it". I do not know what your regime will be, but if you were constrained to, say, 5,000, you would not be able to manage all the manufacturing that goes on. I can tell you only that we are learning—it is brand new in this case—that around 20,000 chemicals seem to be used in a modern society. That is the best I can tell you. I do not know whether the UK has almost as many as the entire number in Europe. I do not have that figure, unfortunately. I cannot speak to you helpfully about Ireland.

Silvia Segna: To give some consideration to Ireland, this may be linked to a potential enforcement issue and border checks. REACH enforcement is the national responsibility of individual Member States. Specifically, policy on the role of customs authorities is currently not harmonised at EU level. For example, from the UK perspective, customs authorities are not named as enforcement authorities under REACH. However, they collaborate with the UK enforcement authorities. They can share intelligence. I think in principle they could also stop goods at the border if they felt there was a suspicion of non-compliance, but I am not aware of any specific cases where goods have been blocked by the UK authorities at the border. I am not familiar with the approach of the Irish authorities. It is difficult to say, but I have never heard of goods being blocked. It is also important to highlight that, in light of the recent review of REACH, the European Commission has identified the need to increase enforcement in the European Union. It may wish to clarify the role of customs authorities in the EU.

The Chairman: Do our witnesses have any specific comments on Ireland?

Lord Rooker: I do not know whether there is any manufacturing in the island of Ireland where the materials cross the border during the process of manufacture. We know that that is the case with food.

Anita Lloyd: I would be surprised if that was not the case.

The Chairman: Perhaps we could ask Roz if she could find out about that.

Q6 **Viscount Hanworth:** Are there any country of origin rules associated with REACH's guardianship? I am thinking, for example, of a plastic manufactured using materials and substances that come from outside the European Union. Would REACH have a concern or regulations regarding such substances? There could be some very toxic substances in that plastic.

Anita Lloyd: I think REACH would prevail in relation to the safety aspects. But with regard to country of origin, you would no longer be able to say that something was EU origin if it was from the UK post Brexit.

Viscount Hanworth: I am just trying to get a sense of what sorts of restrictions REACH imposes. There are certainly country of origin considerations concerning agricultural products that we might wish to export to the European Union once we are outside.

The Chairman: I would expect that, whatever the future agreement, those origin rules would apply to chemicals as much as to anything else.

Roz Bulleid: A plastic imported as an article or a good, if it contained a substance that the EU recognised as a substance of very high concern, might be subject to a restriction, and you would not be able to put it on the market or you would face rules about notifying people and issuing warnings. There are those kinds of rules, but they are not specific to particular countries. They are focused on the hazardous properties.

Q7 **Lord Young of Norwood Green:** Is associate membership a viable objective? Does it get around the re-registration problem? I recognise that we would not have a vote in an associate membership environment, but that does not mean that we would be without influence. Given the universal concern that you have expressed and the impact you feel it would have, are various government departments listening to your concerns?

The Chairman: Who would like to take that on? Libby, did you want to come in on this one?

Libby Peake: I think the departments have been listening to our concerns. It has been great to see the Government's changing stance in trying to gain associate membership. If we did gain associate membership, although we would not have a vote we would potentially be able to sit on the board and, as you say, influence the processes.

That said, it is still concerning, although it makes sense, that Defra has asked for £5.8 million to set up an IT infrastructure to register chemicals in the UK in the case of having to set up an independent UK chemicals regulation system. It is probably worth highlighting that that £5.8 million is effectively for an empty IT database. If we then have to put on top of that all the costs of re-registering 21,000 chemicals at a time when resources, both of expertise and money, are very stretched, it would be an unnecessary drain on the UK's finances.

Anita Lloyd: Coming back to whether associate membership would get round the registration issue, I think it could. As far as I am concerned, associate membership is not a term of art or a specifically defined concept. It does not really exist. Potentially, if we can negotiate it, we can make associate membership what we want it to mean and what the EU will agree it can mean. So it certainly could mean membership of the REACH system without needing a UK REACH regime. It could mean the mutual recognition that we were talking about. Associate membership is not a defined term and we can mould it, I hope, subject to the EU agreeing.

The Chairman: Would you be optimistic that that is possible? This is getting to the core of Lord Young's question. We are talking about practicalities.

Anita Lloyd: I was not very optimistic when I heard the Q&A report and the response to the Cefic position paper last week, which knocked it down in flames. But, like any negotiation, the parties state their positions. Their positions are far apart. We are not quite at the outset, but even at this stage the parties are not willing to say where they will go to as their endpoint. There are so many stakeholders and so much at stake that it is in the interests of the UK and the EU to agree something that makes this work.

Baroness Wilcox: A deal is a deal is a deal—when it is a deal.

Anita Lloyd: Yes, and it will not be a deal until the end.

Baroness Wilcox: Exactly. Can I ask a question?

The Chairman: Is it to do with this particular subject? You are on the list, Baroness Wilcox. You will be able to ask your question.

Silvia Segna: Associate membership would help the chemical industry. The Prime Minister made it clear in her Mansion House speech that, through an associate membership, chemicals would undergo only one set of approvals in one country, so it would help us to avoid regulatory costs and obligations. Obviously, whether or not this is possible depends on the negotiations.

Peter Smith: Obviously, we do not know exactly what associate membership means, but I believe it is possible, and we have seen with the EEA countries that you can participate in the Agency but you do not get a vote in certain committees and certain situations. I think there is a

benefit anyway for the industry and more broadly for the UK in contributing to the other ECHA activities in the evaluation of substances as they come up for assessment. The registrations should stick in that context. But, yes, we do seem to get the cold shoulder in Brussels when we mention this type of co-operation at this point. It is clearly a negotiating point. In Brussels, out is out at the moment. But I would not give up. That is just my optimism.

The Chairman: We have a bit of positivity there at last, so that is good.

Q8 **Lord Selkirk of Douglas:** My first question is on transitional provisions. How important is it to have transitional provisions, possibly over a longer time rather than a shorter time, in order to get the same minimum standards that would be acceptable in trade terms?

Secondly, what is the scale of what we are dealing with? How many people are employed in the chemical industries in Britain, for example? Is enough priority being given to this subject overall? It seems that if there are 21,000 chemicals it is a huge subject.

My third question concerns animal welfare standards, which any opinion poll will show the British value highly. Are they being properly taken into account?

The Chairman: Do you mean in terms of chemical testing?

Lord Selkirk of Douglas: Yes

Peter Smith: We have to see this concept of mutual recognition work out. This is where if you have tested, whether on animals or not, your data is considered robust and can be shared in another jurisdiction. I am not aware if that has happened, for example, in Turkey—I will have to look at that—but in other places such as Korea you can find yourself duplicating testing.

There are very strict conditions as to whether you can perform testing on animals. Nobody wants to. It is a very last resort. ECHA has a very strict set of conditions to consider before it authorises that kind of testing.

The Chairman: Does the whole REACH procedure take the testing into consideration?

Peter Smith: One of the objectives of REACH is to find alternatives to animal testing and to reduce it. It is one of the things you must do through REACH. That question I can answer.

On the transition, at this stage I would say only that you have to look at it from the companies' point of view. The transitional period is very helpful, because we will know where we stand for a period of time, but if it is just putting off the inevitable, you will have to ask whether people have done what they could do in that period up to 2020, or whether it needs to be extended. It would stop people thinking about it. It would not help that much.

The point about the 21,000 substances is that it is a reflection of the fact that the chemicals are the starting point for everything you produce. That is why I could not answer your question about how many chemicals might be in the UK; I do not know whether Sylvia knows. It is because they come in the form of products. We as the manufacturers of chemicals let them go, but everything that we touch has them built into them as they have been made up. That is why there are so many and why a lot of people will be involved, either directly or indirectly. Ninety-five per cent of manufacturing uses chemicals from the chemical industry, whatever is made.

Libby Peake: On the animal welfare issue, when REACH was being set up it was the UK that said explicitly, "We want to make sure that one of the key outcomes of an EU-wide system is that it reduces animal testing". So in setting it up there were three overarching aims. One was to improve the safety of chemicals in general. The other was to ensure that chemicals could be traded across the Single Market. The final aim, because the UK insisted on it, was that it would seek to reduce animal testing.

So there are various measures in place throughout the system to make sure that animal testing is kept to a minimum. Cruelty Free International has estimated that about 2 million animals have been tested on through the REACH system, but in the initial estimations the European Commission thought that as many as 13 million would have to be tested for the registrations.

Different systems are in place, including data sharing and read across whereby you do not have to conduct tests again on chemicals with similar properties because you can say that the outcome is likely to be the same. Because those are systems in place, the amount of animal testing that has to be done has been drastically minimised. If the UK leaves the system and in a circumstance where it cannot access the safety information that is owned by EU companies, there is a possibility that we would have to re-conduct those animal tests in order to ensure the same safety standards in a UK system.

The Chairman: Thank you. That is a very good question, which I would never have thought of.

Lord Selkirk of Douglas: Can I ask a question on a different theme: illegal chemicals coming into this country? I was in Quebec, and to my astonishment there were a lot of bins of asbestos slurry. They were trading in that asbestos. My understanding is that asbestos is considered to be life-threatening if people get access to it too readily, but there was a trade there. That was some years ago. I do not know whether they have changed their policy, but presumably a system is in place to make sure that chemicals that have not passed minimum qualifications should not come into this country.

The Chairman: Before that question is answered, perhaps I can bring in Roz and maybe Silvia to answer your earlier question about whether the

transition is long enough and about the scale. The question about the transition is particularly important to our inquiry.

Roz Bulleid: Perhaps I misunderstood Peter, but, for us, having a transition is essential to give companies time to prepare for whatever is coming.

On the question of whether the transition is long enough, free trade agreements on the whole take a lot longer to agree than is being proposed, so there must be flexibility if negotiations overrun. So the question about the transition is broader than the question about REACH.

Specifically on REACH, we have spoken about the bilateral grandfathering of EU and UK registrations and authorisations. For a time-limited period at least, that might be more acceptable to the EU. If so, it is worth bearing in mind that authorisations last about seven years, so you could build that in too, and something that lasted for at least that period could be helpful in the context of REACH.

The Chairman: What is the scale? How many people are employed in the chemical industry in the UK?

Silvia Segna: We employ around 500,000 people in the chemical sector.

On the transition, we think it is vital to have a smooth transition that would cause minimum change for businesses, because, as you can understand, this is a very complex area. We have more than 11,000 registrations that will need to be reviewed one by one, so it is essential that we remain within the framework of EU regulation during the transition. If we are out of REACH post Brexit, that would give us time to prepare for potential changes.

However, a transition should not be seen as a continuation of the period of uncertainty for industry. Our member companies would like to know as soon as possible from both sets of negotiators whether we could remain in REACH or whether we will have to leave. Of course, we will need to know as soon as possible what the requirements for UK companies will be, because uncertainty is growing for our sector and it is becoming increasingly difficult for businesses to plan for investment. We are starting to see this uncertainty affect decision-making in companies and their registration strategies going forward. So it will be very important to have clarity, if possible.

The Chairman: Thank you. That was very useful.

The Duke of Montrose: Just to get a bit more understanding, when a chemical is approved under REACH, presumably it has to meet the general question of hazard. I am not quite sure whether that applies to the uses it is put to or whether it is a blanket classification. There was a thought that, by bringing Brexit in, our REACH regulations might modify some things to a question of risk rather than hazard. The minute we start bringing that in, we fall foul of compliance with the EU. What do you think would happen?

Peter Smith: You have struck on a really good theme. There are many pieces of related regulation on chemicals. There are something like 150 interacting at the moment in the EU, so a piece of work called the fitness check is being done to look at all the non REACH-related pieces of legislation to see how they interface with one another. There could therefore be a clean-up job on the European base, and you have hit on one of them: classification. That is not REACH; that is its own piece. That is why I said that Switzerland could work on it with ECHA. Interestingly, ECHA manages the classifications, as well as more risk assessment—if you want to think of it like that—of REACH, as well as biocides. It does quite a few of these things.

Where do I see the benefits of the UK, say, not applying REACH? Let us try to turn this around. If you had asked me 10 years ago, maybe we could have redesigned REACH, but we are 10 years down the path and we now have the 21,000 substances and all the dossiers—there are 80,000-plus dossiers on these 21,000 substances—in a database. Everybody has done all that, so where is the benefit now?

Your point comes in then. The next stage is, now we know everything about the chemicals, are we using them safely and what are the risk assessments? Would the UK agree with an EU assessment? Yes, there could be departure over time if you are not in the same regulation. I do not know what that would look like; it would depend on the framework that you have created. So you are right: there is a future on the risk assessment side where the UK may take a different line from the EU 27. Whether it would be better or not, I could not say, because I do not know what it is.

Anita Lloyd: I completely second Peter's remarks. Everything seems to loop back round to trade. It is all very well saying that we could change our approach and the classification of our chemicals, but if we wanted to sell those chemicals into the EU, our customer would be the EU importer who would be required to label and classify it in accordance with EU legislation. It would work only for things that we do not sell into the EU.

Libby Peake: I would just point out that the Government have said that they might not necessarily follow REACH's decisions or that they would evaluate some substances differently in an Environmental Audit Committee inquiry into REACH. So there is a possibility of that happening.

The environmental movement would be quite concerned about our being in a situation where we do not apply the same high standards as REACH, or even a situation where the UK has its own system but it moves slightly more slowly than REACH, in which case substances that are banned in Europe and which Europe has deemed dangerous could be put on the UK market and the UK could be seen as a dumping ground for the chemical industries getting rid of substances that they can no longer sell in Europe but can still sell in the UK. That is why we think that maintaining that sort of equivalence and staying in REACH is so important.

Q9 Lord Krebs: I have two questions. One goes right back to the beginning when you asked whether there were any benefits from Brexit. If we leave REACH, the figures we have been given are that 55% of our trade in chemicals is with the EU. Presumably 45% is with somewhere else.

The proposition made by those who support Brexit is that it provides us with an opportunity to grow trade with countries outside the European Union. Would being outside REACH be of benefit in developing trade with countries such as China, India, Brazil or sub-Saharan Africa? That is question one.

Question two relates back to the point about the transition period. We know—at least, we are told in the press—that the Government are also preparing for a no-deal cliff-edge outcome on 29 March next year. What would it look like for the chemical industry on the day after we have fallen off the cliff edge, if indeed that is what happens? The Government must have thought that through, so they must have discussed with you what would happen on 30 March, so could you please tell us what they said?

The Chairman: We have a note of optimism in the meeting.

Silvia Segna: I will start with the no-deal question. For us, the consequences of a no-deal Brexit would be that REACH would cease to apply to the UK on 30 March 2019. REACH would be converted into UK law through the EU (Withdrawal) Bill on the day, so we would still have the same requirements in the UK and there would be no transition for businesses to adapt to a change. UK registrations and authorisations obtained until 29 March would become non-existent in the EU, so it is very unclear what would need to be done to continue to trade with the EU.

Under no deal, we would expect the UK Government to lose access to the ECHA database to which the registration dossiers were submitted, so it could not use all the data provided by industry. Also, as we said before, companies may not in all cases have access to the data under REACH, to comply with potential future UK law.

Finally, as already mentioned, UK companies that import from the EU 27, that were previous users of chemicals, and did not have any registration obligations, could have many UK REACH registrations to submit to the UK authorities because they would suddenly become importers under UK REACH.

We have tried to look at the potential cost impact, so we have tried to do an internal analysis. It is a very simplified cost calculation—it is very difficult to come up with precise figures—but we believe that the additional cost to the UK and EU chemical industry as a whole could be in the order of £450 million, just to ensure that UK-registered substances simply stay where they are today.

That excludes all potential costs such as time, resources, fees that companies may need to pay to appoint representatives in the European

Union, the duplication of costs that companies may face to comply with two sets of legislation, and the cost—in the range of hundreds of millions of pounds—of all the new registrations that importers, including formulators in downstream industries, could suddenly be subject to post Brexit that were not needed before because the raw material is registered in the EU and not in the UK.

Lord Krebs: Supposing there is a factory in the UK that has lorry loads of stuff waiting to ship to the rest of Europe, they have been loaded up on 29 March and we fall out of the European Union with no deal. What happens to those lorry loads of stuff? Do they carry on going off to Europe, or does the border force in Calais say, "Sorry, you can't come in"?

Silvia Segna: Those batches of products will still need to be compliant with REACH from 30 March, so the company will need to ensure that by 30 March someone is charged with the responsibility to register. That may be an only representative, if the company is allowed to appoint an only representative. If not, the responsibility will go to the importers in the European Union. It is very complex. We can only generalise. Each substance will need to be reviewed on a case-by-case basis, and there will be commercial implications and decisions that companies will have to make.

Roz Bulleid: It could be really disastrous for some of our members, because they could suddenly find that a whole range of substances which they and their suppliers rely on are illegal to use.²

Anita Lloyd: There is almost an horrific Catch-22 situation, because, in the scenario you mentioned, until Brexit day the UK company is an EU manufacturer and so needs to maintain its registration. From Brexit day, the French company, let us say, is an importer. It was not an importer pre- Brexit and so could not have registered in advance, in anticipation, because it was not of the right legal status; it was not an importer at that point.

Similarly, the UK company could not have appointed an only representative in advance, because at that stage it was not a third-country manufacturer; it was an EU manufacturer. Put that up against "no registration, no market"; if you cannot sort it out in advance of Brexit, because people do not have the right status, all those supplies are illegal until people get the registrations in place, which cannot happen straightaway.

As Roz said, it is just disastrous.

² Note by witness: the witness subsequently clarified that substances would be illegal to use where the supplier had the authorisation that the manufacturer relies on but for registrations it is placing on the market or importing that will become illegal.

Peter Smith: I was not going to deal with the transition, because you asked another question. I will try to change the question, because the other witnesses have made great points.

I am not sure about going outside. I say that only because of a couple of earlier comments. If 95% of your manufacturing industry deals with chemicals, wherever you are in the world we are discovering that, roughly speaking, 70% of the chemicals that you make in a region stay in that region. This is not as global as you think. From 2012 to 2016, 25% to 30% of EU-produced chemicals went outside. The rest were consumed inside. The biggest consumers outside are the European countries that are not in the EU—Turkey, Russia, Norway, Iceland and so on—and the trend is the same in other parts of the world. Chemicals are so ubiquitous to manufacturing that they tend to stay close to where they are going to be used.

It is an interesting model, but it is not what has gone on in the past. It could in the future, of course, but that is just background to let you know how it is. That was it.

Libby Peake: I was going to address that point as well. The figures that I have are slightly different. One is that the UK exports 60% of its chemicals to the EU market. It is also worth bearing in mind that quite often chemicals pass back and forth. The figures I have heard are that chemicals will cross the channel three to four times in the manufacturing process.

On whether other markets would open up because we are no longer in REACH, there is more of a trend in other countries to move towards REACH. Countries such as China and Turkey are moving towards REACH rather than away from it, so it makes much more sense for us to stay in REACH in that context, too.

The Chairman: Thank you. That is very useful.

Q10 **Baroness Sheehan:** I ask this question more in optimism, really. I am interested in the impact that REACH has had on people and the environment. It might be quite difficult to give examples, but do any examples stand out of where REACH has made a big difference?

The Chairman: Libby, tell us about the environmental advantages, or the dangers, of leaving.

Libby Peake: It is worth thinking about why REACH was first implemented. In the late 1990s, the EU identified that there were increased cancers, endocrine disruptions and environmental damage. That was the reason for creating the system in the first place: to protect the environment and human health.

One recent concrete example of where it might be helping human health is that the EU is the first to move towards banning Bisphenol A from till receipts and other thermal papers. It is a known endocrine disruptor, so there is a risk that when a pregnant till worker handles these receipts they could damage the development of the baby. That is one recent

concrete example of the EU moving first to make sure that people are not exposed to that risk.

Baroness Sheehan: Is the risk in the ink or paper?

Libby Peake: BPA—Bisphenol A—is commonly found in hard plastics, but it is also found in some thermal papers. About half of till receipts have BPA in them. As I said, it is a known endocrine disruptor, and the EU is in the process of banning it. That is one concrete example of where it is improving human health.

Q11 **The Earl of Stair:** Are there any implications under REACH for the movement particularly of bulk food feed and other agricultural products? I am thinking principally at the moment of agrochemicals and other chemicals that may have been used that may have a residual effect on the product, which is then moved between countries. Will that have any implications under REACH? This may well come under a derogation of the 1-tonne limit, but it has not been thought out yet. It will be particularly relevant, I suspect, between the north and south of Ireland, but if material is moved from mainland UK to Ireland or to France, will that have implications under REACH?

Roz Bulleid: I was trying to think quickly about REACH and by-products.

The Earl of Stair: You are talking about residual by-product or product carried by what you might call a third party.

Roz Bulleid: There are carve-outs for particular types of products. I am not quite sure whether REACH would necessarily apply.

Anita Lloyd: If it is a waste, it would not be covered by REACH.

The Earl of Stair: No, it was a raw material that I was thinking of, either for animal feedstuff or human feedstuff.

Roz Bulleid: I imagine that the quantity would be under a tonne a year, so in any case it probably would not be relevant, but we can check again if you would like us to.

The Chairman: If you could come back to us, that would be very useful. Baroness Wilcox has the next question.

Baroness Wilcox: I am happy to tell you that I was happy with Peter's response to Lord Krebs's question.

The Chairman: Thank you. Anita, how long does registration take?

Anita Lloyd: It depends on what sort of registration you are doing. Registrations for lower tonnages have a lower data information requirement than for the higher tonnages. Certainly, for this latest round of registrations, companies are preparing one to two years in advance. Companies have been preparing for a very long time for the May 2018 deadline that has just passed.

Registration is not an approval process, it is a self-certification process, so you are not waiting for an approval for ECHA, but there is certainly a long lead-in time in order to get your dossiers and information together in order to submit your registration through the system. So I would say that you would need at least six months to a year for a basic registration.

The Chairman: That is fine. One of you mentioned IT systems in particular. Is Defra doing any IT preparation on databases at the moment? Do we know?

Libby Peake: I mentioned it. Defra has requested £5.8 million for an IT database system, but that will just be the system itself; it will not have the registrations in it. Defra is looking into it.

The Chairman: Has that development started?

Libby Peake: Yes.

Lord Rooker: I have two brief questions for Peter. First, how often does a vote take place at the Agency?

Peter Smith: There are votes in various formats. There are certain technical committees within the Agency. There is the risk assessment committee, the socioeconomic committee, and a Member State committee. The risk assessment committee—the RAC—and the Member State committee in particular will vote on a number of things.

Lord Rooker: Okay. So you have not said that they are rare. I just wanted to knock on the head the idea that, if we got in but could not vote, it would not matter. In other words, there are—

Peter Smith: There are a lot of votes, but I did not say that in those committees we could not find a way to get a vote. There is another committee, the REACH Committee, which is the Commission's committee, which has the final say on certain things. I would not see a way of being out of the EU but voting there, but in the technical committees it can be slightly different.

In the risk assessment committee, for example, a country can nominate someone from another country—an expert, because they are looking for an expert, such as an academic from another country, to represent them. I could see a way through that if the risk assessment committee or the SEAC, the socio-economic affairs committee, were to vote, but probably not if it was the Member State committee, which is the ECHA committee; it is less active, in my opinion. The REACH committee, which is the Commission's committee, is only for EU members. It is a bit of mix.

Lord Rooker: I am curious, because we have not mentioned it: does REACH operate anything like an alert system, equivalent to RASFF for food and feed, alerting Member States to some chemical that has popped up in Europe that should not be there, or not?

Silvia Segna: I think it is linked to the RAPEX system. You can find examples of products that are restricted under REACH. National enforcement authorities across Europe may find non-compliance and report back to RAPEX.

The Chairman: Before I ask witnesses to sum up very briefly, there is one other area that we have not really covered, and I want to make sure that we cover it.

A country such as South Korea, an industrial country, which I presume produces chemicals, and now has a free trade agreement with the EU. Presumably it will be in a similar position to the position we might be in as a third country. Does it manage to get its chemicals into the European market, or is it really difficult for it? Presumably that trade takes place, whether it is with Russia or whoever.

Anita Lloyd: Yes, that trade takes place, and, as you said, there is a free trade agreement. The key thing for me is that South Korea has always been outside the EU, so it has set up a system that almost mirrors EU REACH. It is called K-REACH, because it is so similar. It has always been outside the EU, so it set itself up from the start to appoint only representatives, for example, or to work with its customers as importers.

A key issue for me is that the UK is going from the inside to the outside. No one has done that before, and all the changes of status—all the changes of legal status, from my point of view as a lawyer—give rise to really specific difficulties that need to be addressed.

So, yes, other countries do trade with the EU, and the systems are often very similar.

The Chairman: So there is REACH, which dominates European regulation, and I presume there is an equivalent for the United States, which does something different. Do countries that are not in NAFTA or the EU, and that want to export, all produce to those two standards? Is everyone else in effect a rule taker? It would be useful to understand that.

Anita Lloyd: I suppose they are rule takers as regards the EU. If a US company wants to send its products—

The Chairman: In the global market, do you produce to the EU standard or the United States standard, and that is it?

Anita Lloyd: No. You have to produce to the standard of the market that you want to sell into.

Roz Bulleid: When it comes to substances used in products and restrictions on hazardous substances, our members who are quite international produce to the highest standard globally.

The Chairman: So they meet everything.

Roz Bulleid: They make everything to that standard. There is no demand to make multiple products for multiple markets.

Q12 **The Chairman:** That was what I was trying to understand.

To sum up, perhaps I could ask our witnesses to tell us what they think are the really key points in two sentences and the thing they would like to leave with us in relation to this inquiry.

Libby Peake: In one sentence, it would be doing everything possible to remain within the REACH system. That would be by far the best outcome for businesses, taxpayers, animals, the environment, and human health.

Peter Smith: I concur. I am open to other suggestions, but I have not yet heard an alternative to REACH that would meet the needs of the citizens of the EU and the UK or the environment.

Anita Lloyd: REACH is a very established regime and we have invested heavily in it. It is clear that any other regime or system that we want to adopt will have complications from a legal and commercial perspective. If we want to go in a different direction at any point, it needs to be thought about very carefully in advance and we need to work out how it would work. I cannot see that that has happened yet.

Roz Bulleid: As our discussions today have shown, this is a hugely complex area. That means that it is essential that we get clarity as soon as possible on what companies need to do to prepare for Brexit and that we have a smooth transition with the maximum level of regulatory co-operation.

Silvia Segna: REACH is fast becoming an international standard of influence, and we as industry recognise the need to continue to maintain robust regulation in the UK. We spent over a decade working under REACH and making a huge investment in compliance, and we will need to provide businesses as soon as possible with clarity about the future of a UK equivalent and how it will align with EU legislation and minimise the additional cost to industry.

The Chairman: Thank you very much. It has been a very useful meeting indeed. If the witnesses have any further information that you think we should have, you are very welcome to address those to our clerk.