



# Select Committee on the European Union

## Energy and Environment Sub-Committee

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

Wednesday 18 July 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.

Evidence Session No. 2

Heard in Public

Questions 13 - 26

### Witnesses

[I](#): Dr Thérèse Coffey MP, Under-Secretary of State for the Environment, Department for Environment, Food and Rural Affairs; Gabrielle Edwards, Deputy Director, Chemicals, Pesticides and Hazardous Waste, Department for Environment, Food and Rural Affairs.

## Examination of witnesses

Dr Thérèse Coffey MP and Gabrielle Edwards.

**Q13 The Chairman:**

This is the second session in our short inquiry into the REACH regulations and Brexit, following our round table with industry, consumers and other interest groups some weeks ago. I remind Members to declare their interests, if they have any, when they first speak. To state the obvious, this is a public session, and it is being webcast and recorded. We will send you a copy of the transcript. If there is anything you think is in error, please send it back to our clerk and we can put it right.

Minister, for those who listen or look at the webcast, could you introduce yourself? Gabrielle Edwards, could you introduce yourself, too?

**Dr Thérèse Coffey MP:** I am Member of Parliament for Suffolk Coastal, but I have the great pleasure of being Parliamentary Under-Secretary for the Environment. I think I am right in saying that it is two years since I have been in the post.

**The Chairman:** Excellent.

**Gabrielle Edwards:** I am deputy director for chemicals, pesticides and hazardous waste in Defra, now focusing entirely on EU exit work.

**Q14 The Chairman:** Thank you. I declare a tangential interest; I am a director of a company called KCS Trade Print, which uses some printing chemicals. It is an SME in Cornwall.

We will start with a broad question. What is the Government's position on the REACH Regulation following Brexit and how will it apply? Our evidence has revealed concern that the European Union (Withdrawal) Act, as it now is, is not sufficient, because the regulations are so entwined in the institutions of Europe and the Act itself will not deal with that. I am interested in understanding how those gaps will be dealt with by the Government.

Given that we now have the White Paper, which is proposing a free trade area in goods, we are particularly interested in how that proposal will affect the Government's approach in negotiations on chemicals and REACH.

**Dr Thérèse Coffey MP:** As you have just pointed out, we are very clear in the White Paper that we want a free trade area for goods, which of course includes chemicals, so that we have as frictionless trade as possible. Early on, in one of the Prime Minister's speeches earlier in the year, she referred specifically to chemicals—

**The Chairman:** Indeed.

**Dr Thérèse Coffey MP:** —and to the intention to seek, in effect, associate membership and ongoing participation. We are conscious that

nobody else has associate membership, but we would like to think that that is a matter of negotiation.

In essence, the approach we would like to see coming out of this is the objective that chemicals need to be approved only once in either market, and that UK businesses can continue to register substances directly, rather than having to work solely through an EU-based representative in the future.

That is the outcome we would like. I am conscious that it is still very much subject to negotiation. Given the importance of chemicals in almost every sphere of manufacturing and goods, we think it would be in the best interests of many companies, which are very keen on this arrangement, supporting what has been put in the White Paper, to increase their calls on their Governments to consider why this would be a good outcome for them as much as it would be for the UK.

**The Chairman:** How are we going to make the UK legislation work post Brexit? Will we have a lot of Statutory Instruments to get the regulations to work post Brexit? It is seriously complex.

**Dr Thérèse Coffey MP:** It is rather complex. We need to identify a regulatory body other than ECHA in the case of a potential no deal. We have HSE, which is currently the competent authority and covers all the United Kingdom at the moment, with the agreement of the devolved administrations. We want to ensure that we have technical and scientific advice. We will need to make provision for more of that to replace ECHA if things do not turn out entirely as expected. We already have a substantial amount of technical and scientific advice, which ECHA relies on, from certain perspectives. That goes broadly for chemicals, and for pesticides and so on.

We absolutely are preparing the Statutory Instruments to transfer the responsibilities and operabilities that we need to make sure are there. We need to make sure that they are ready and in place before 29 March next year.

**Gabrielle Edwards:** You are absolutely right, Chairman, that if you bring REACH into UK law under the approach in the Withdrawal Bill, there are a lot of inoperabilities to fix, because it is such a centralised EU regime. As the Minister said, we need to replace approaches to decision-making by 28 Member States, the role of the Commission and the role of ECHA with UK arrangements. That essentially means building UK regulatory capacity by extending the role of HSE and the Environment Agency, and putting arrangements in place to ensure that there is suitable transparency and a requirement to seek external advice to replace some of the work that is done in the ECHA technical and scientific committees. That is all being picked up through a large and detailed SI, which will be laid later this year.

**The Chairman:** Can I get an idea on the timing for the SIs and the secondary legislation to get this to work in UK legislation? As

parliamentarians, we all know that a huge amount of secondary legislation will have to come down the legislative path, and there is not a lot of time. I do not know how many sitting days there are between now and 29 March, but there may not be as many as we think. Does the nature of those SIs depend on knowing what the future relationship is? Can you write them now, knowing what you know now, or do we need to know more about the end negotiation before we can even write them?

**Dr Thérèse Coffey MP:** It is fair to say that there are still some policy matters that are negotiation-linked, but we believe that we can draft them, because at the end of the day you can edit them if you need to, before laying them.

The other slight challenge—not a challenge, but another part of the operation—is agreeing this with the devolved administrations, which is an added complexity along the way. I think there is common agreement among the four Governments, or rather three Governments and the Civil Service, to have a UK framework. It is just a new venture for us.

Gabrielle has been doing the detail of the SI, so I had better hand back to her.

**Gabrielle Edwards:** To explain, there are three things going on. Essentially, the SI that we are producing at the moment is the SI for March 2019 on the assumption that there is no deal with the EU.

**The Chairman:** On the assumption of no deal.

**Gabrielle Edwards:** On the assumption of no deal. We have a no-deal scenario, for which we require the SI. We then have the optimistic assumption that we will be moving into an implementation period, when it would not quite be business as usual but we would still be complying with REACH as it is now, and the expectation is that there would need to be a piece of legislation to give effect to that. The SI that we are drafting would not apply if we moved into an implementation period; it is only for a no-deal scenario. Clearly, if we move into a situation where we have a negotiated settlement with the EU along the lines of the White Paper, for example, there would need to be further legislation to enable us to support those arrangements.

**The Chairman:** That is very clear. When is Parliament likely to see those SIs, so that the industry can get some reassurance that there is not going to be a legislative gap?

**Dr Thérèse Coffey MP:** It all has to go through a cross-Government process before we get there. I think our aim was by the autumn.

**Gabrielle Edwards:** Our aim is to have them ready through the autumn. We are discussing the approach in those SIs informally with industry at the moment to try to provide some reassurance and to get feedback on how we are trying to deal with some of these quite complex inoperabilities. We need to get those moving through the parliamentary

process as soon as we can, particularly to take account of the need to ensure that it is lined up with the devolved administrations.

**Q15 Viscount Ullswater:** I have a declaration of interest: I am a trustee of a landed estate in Cumbria, which uses artificial fertilisers for the production of food.

I want to deal with the transition period. I think Ms Edwards has already dealt with it a little, but I would like to clear things up. If a transition period running until the end of 2020 is agreed, what arrangements will apply regarding REACH? Is it your understanding, for instance, that UK companies will be able to submit registration dossiers? Will the current ones remain valid? Will UK experts be able to participate in the risk assessment committee, and will the UK have a vote in the REACH committee?

**Dr Thérèse Coffey MP:** Registrations in place before 2019 will continue to be valid during the implementation period, in the same way as they are now. My understanding is that, as the UK will not be a Member State, unless we have associate membership negotiated or similar, HSE will not be able to act as the leading competent authority to conduct certain assessments under REACH regulations. In effect, an authority in another country will have to—not an authority; I am getting myself confused.

**Gabrielle Edwards:** The regulator.

**Dr Thérèse Coffey MP:** The regulator will have to be a non-UK one if we cannot get an agreed negotiation, but it is our intention to try to minimise disruption and to work with businesses to minimise any disruption and delay. Some preparatory work is still to be done on that.

**Viscount Ullswater:** When you talk about a registration authority, are you suggesting that another Member State undertakes that?

**Dr Thérèse Coffey MP:** ECHA is the agency on behalf of all the countries. Gabrielle is the technical expert, so I will let her go into a bit more detail.

**Gabrielle Edwards:** The expectation is that companies would continue to submit registrations and dossiers to ECHA through the implementation period, and that existing registrations would remain valid through that period, so there would be no change for industries in registration.

There are then issues about what happens with the business of continuing to assess chemicals and taking regulatory decisions. There is a question about whether UK experts would still be able to attend the expert committees in ECHA. Our expectation is that when there is a UK interest they would, but clearly those details still need to be finalised. But when it comes to taking regulatory decisions, votes in REACH committee for example, the UK would not have a vote.

As the Minister was saying, there is a separate issue on the question of lead authorities, where HSE is the regulator, or the EA for some

substances. They do a lot of technical assessment, which then goes into the ECHA processes—for example, to consider possible restrictions on substances. Once we have left the EU in March, we will not be able to play that role. That is specific in the Withdrawal Agreement as it stands at the moment.

**Q16 The Duke of Montrose:** I declare an interest as a farmer who has used all kinds of chemicals.

In whose view will the registrations continue? In our earlier briefing, we heard about certain circumstances in which registrations would not be valid.

**Dr Thérèse Coffey MP:** I do not know why someone would suggest that. We need to look at that.

**The Duke of Montrose:** In your view, they will continue.

**Gabrielle Edwards:** They will continue through an implementation period.

**The Duke of Montrose:** Is that a European view?

**Gabrielle Edwards:** Yes. That is the understanding in an implementation agreement. At the end of an implementation agreement, if you do not have a negotiated agreement with the EU, you would expect registrations to no longer be valid.

**The Chairman:** We will come to that in greater detail in a while.

**Lord Rooker:** I just want to be clear about this. There will only be a transition period, an implementation period, if we have an arrangement with the EU. If there is no deal, we are out in March anyway and there will be no transition period. Correct?

**Gabrielle Edwards:** Yes.

**Lord Rooker:** The one depends on the other. The transition period arrangements mean by implication that we have made some arrangements about what is going to happen with registration and regulation during that period. If there is no deal, there will not be a transition period and we are just out on our own. Is that correct?

**Dr Thérèse Coffey MP:** Yes, which is why the Prime Minister is keen to avoid that.

**The Chairman:** It is tied up with the questions on the SIs.

**Q17 Baroness Sheehan:** Let us be optimistic and work on the premise that we have a transition period. Do we expect more substances to be prohibited and banned under REACH in the next five years than ever before?

**Dr Thérèse Coffey MP:** We had this discussion the other day. It has started increasing, it is fair to say, compared with several years ago. I am

not sure that I could definitively say whether more will be banned or not. Could you explain why we think it is increasing, Gabrielle? There is growing sensitivity, undoubtedly.

**Gabrielle Edwards:** There has been a process of registration through REACH, so there were earlier deadlines for substances that were being used in higher volumes. The final deadline for registrations for smaller-volume-use chemicals was earlier this year. With all that data now sitting with ECHA and the big registration hump now over, we now expect the pace of work on substance evaluation to increase, which could, depending on the outcome of that, lead to greater restrictions on substances.

**Baroness Sheehan:** So even in the very optimistic scenario that we have a transition agreement, the UK will not have a seat at the table to be able to voice its support for or opposition to chemicals being banned.

**Dr Thérèse Coffey MP:** That is correct. We will not necessarily have a voting right, but my expectation as a whole in Government is that—

**Baroness Sheehan:** We could perhaps ask favours from another regulatory body.

**Dr Thérèse Coffey MP:** I think it will be similar to other countries that have a vested interest. Dare I say it, they still lobby different organisations to make those cases. Switzerland does, and Norway. We would be part of that, trying to use our influence and the vast expertise that has very much been welcomed over the past 40 years.

**Viscount Hanworth:** How influential do you imagine we have been in forming REACH and informing its practices in the structure under the status quo? Have we been a major player, or have we been marginal?

**Dr Thérèse Coffey MP:** My judgment is that we have been a major player.

Q18 **Viscount Hanworth:** I have a designated question, to which I think I know the answer. What progress has been made on negotiating associate membership of the European Chemicals Agency since the Prime Minister's suggestion in her Mansion House speech, and of course more recently in the White Paper last week, that she should do this?

I heard your statement that it is subject to negotiation, but perhaps we could get something more from you about our relationship with the European Union in that connection. Beyond that, what would we aspire to in associate membership? Would we have access to the database, or would we have to rely very largely on our own resources and simply have our various activities validated by ECHA?

**Dr Thérèse Coffey MP:** I am afraid I do not have anything to update the Committee on, on whether we have been successful in our negotiation, but the outcomes that we want are exactly access to data, access to the IT systems and, as I articulated earlier, products being able to go through one approval mechanism to access both markets.

It is important that UK businesses continue to register chemical substances directly and do not put off the work that they might want to do to introduce them on the basis of trying to understand that. It is our intention to make the transition as smooth as possible.

**Viscount Hanworth:** I have heard talk of UK REACH. I am reminded that ECHA has 600 people in Helsinki. To replicate that kind of activity here would be very expensive, if not impossible. Can you comment on that briefly?

**Dr Thérèse Coffey MP:** As I articulated earlier, we would definitely have to recruit more people to fulfil the duties.

**Viscount Hanworth:** You would not accept my suggestion that it would be almost impossible to achieve that within an acceptable time period.

**Dr Thérèse Coffey MP:** Remind me, Gabrielle. The number of registrations every year is actually not huge.

**Gabrielle Edwards:** If there was no deal with the EU and we were building a freestanding UK capability, it would be quite a significant undertaking. We do not think we would need as many people as there are in Helsinki, but we would clearly need people to operate a registration function and to do substance evaluation and take up the functions under the REACH Regulation.

**The Chairman:** We can go into that in subsequent questions. Let us leave it at that level for the moment.

**Lord Krebs:** Minister, would it be fair to summarise the Government's position as follows? After leaving the European Union, our objective is to have an arrangement that is as similar as possible to the one we have at the moment. The dream scenario would be no change.

**Dr Thérèse Coffey MP:** The Prime Minister has been clear that it is about associate membership. She recognises that, if we leave the Single Market and the European Union, we cannot expect to have an identikit operation automatically. I believe that as close as possible would be a desirable outcome to achieve.

Q19 **The Duke of Montrose:** The Government White Paper clearly states that the economic partnership will mean remaining members of various EU organisations, but for some reason, down at your end of the House yesterday, somebody passed an amendment to the Bill on the medical things. I do not know if there is any lobby down there to put REACH in the Bill.

The question I wanted to ask was: when will you be able to provide clarity to industry regarding the UK's participation in REACH and the ECHA post Brexit?

**Dr Thérèse Coffey MP:** To answer your first point, from my memory of last night, four doctors put forward that amendment and attracted quite a

lot of support for their views—for a variety of reasons, I think is best way to say it.

**The Chairman:** [...] scientific or chemical engineers at this end when the Bill reaches us.

**Dr Thérèse Coffey MP:** Moving on, there have been discussions with companies, and we very much hear their concerns about the costs and the time of transfer and reregistration. From very early on, chemicals were considered to be one of the key things where we would want to try to have an exceptionally close relationship with the European Union through ECHA. At the moment, that is still our main priority. Meanwhile, we are preparing the back-up in case there is no deal.

**The Chairman:** Given that the length of transition is about 21 months—during that time I think it is generally accepted that there will be no chance of getting a comprehensive future agreement with the EU—what happens at the end of the transition period?

**Dr Thérèse Coffey MP:** Hopefully by then we will have a new free trade agreement ready that will set all this out. We will have more time to negotiate it.

The HSE recently put a notice on its website to update businesses with progress on developments in the negotiations. Companies have input, either by talking to us or by talking to BEIS. With the Industry Minister, we are seeing more people in the next week to go through some of the issues.

**The Chairman:** Perhaps I could follow up with Gabrielle Edwards a really important point that came from industry. If, on 30 March next year, we come out, at that point all the current registrations become invalid. We were told that very strongly in evidence from more than one of our witnesses. It would probably take at least six months to get registered. People that would now be seen as importers would have to register those chemicals from the UK, although that would be difficult because, while we are still a member, they are not importers. We are not trying to be clever about this, but it was a real Catch-22, a real issue about timing for the industry. What is the Government's approach to that difficulty?

**Gabrielle Edwards:** You are absolutely right: clearly, the way REACH is set up does not envisage a situation where registrations held in a particular Member State are suddenly not valid any more. It is encouraging that ECHA has recognised that particular problem. There is some material on its website, and there has been some discussion suggesting that you would need some sort of mechanism in place to enable those registrations to be transferred in advance, even though the transfer would not become live until the point of exit, so that companies could make the necessary preparations.

Clearly, if it looks as though we are going into that sort of scenario, we would need to work closely with ECHA to make sure that those

arrangements were properly put in place and we did not end up in a scenario where registrations became void overnight.

**Viscount Hanworth:** Would you say that ECHA is well disposed towards us, or is it somewhat impatient about all this self-inflicted difficulty?

**Gabrielle Edwards:** ECHA is a European institution, so it is operating within the framework of the negotiations, but we continue to have constructive conversations with ECHA.

**The Chairman:** I think that is probably as far as we can get on that, but it was clearly a major concern of the industry.

Q20 **The Earl of Stair:** I declare that I am involved in agriculture and in the printing industry, both of which involve the use of chemicals.

I turn to the no-deal scenario, although I know we have touched on it already to a certain degree. If there is no deal, no transition period, no connection with the register and everything has ground to a halt. The ECHA has already published some guidance for both scenarios for our countries. What assessment have you made of a no-deal scenario and the effect it would have on the chemical industry?

Perhaps more importantly, what sort of guidance have you provided to companies dealing with chemicals on what actions they may need to take to ensure that they are prepared for the consequences of Brexit in the event that there is no deal?

**Dr Thérèse Coffey MP:** As Gabrielle as just articulated, the registrations would become void. There is then the duplication of costs for businesses. I am not saying the cost would be the same for both, but to comply with two separate regulatory systems there are challenges. I understand the uncertainty.

However, there is a wider issue, as I was trying to articulate earlier, of trying to help people make that transfer, including for things that were already in process. There is a mechanism, I understand. Perhaps I have misunderstood it, but I understand that there is a transfer cost, which can vary between about £200 and £1,500 for existing registrations. That is the kind of additional cost that would impact on businesses with the risk of a no-deal scenario.

Stakeholders have given us different views on how long they think it would take to reregister—anything from under an hour to over a year. That is obviously quite alarming for the businesses involved. As I articulated earlier, there is guidance on the HSE website to make sure that businesses are prepared for the consequences of Brexit.

**The Earl of Stair:** The chemical industry employs an awful lot of people. Is there any move by the Government to support companies that are going to be left rather high and dry in the event that there is no deal?

**Dr Thérèse Coffey MP:** The move by the Government is trying to secure a deal.

**Q21 Lord Krebs:** To follow up the Earl of Stair's question, when we took evidence from the industry a short while ago, this was what one industrial representative said about no deal: "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". In the preparation for no deal that we understand the Government is making, do you consider that the industry has a pessimistic view or a realistic view? Would it be a disaster for the chemical industry?

**Dr Thérèse Coffey MP:** It is difficult to say, because it will vary by company and according to what companies are doing to prepare, as I have said before, perhaps not at this Committee, but elsewhere. Having worked for a large multinational business, I anticipate that they would already be preparing for more than one scenario and taking the commercial decisions that are necessary for the ongoing functioning of their business. I expect that this will be a massive issue for some companies; for others it might not be quite the same. It will vary by company.

**Gabrielle Edwards:** You are absolutely right: there is a transition issue. As I mentioned earlier, the expectation is that, on that scenario, in order to maintain access to the EU market, companies will need to transfer their registrations. That is action they will need to take, using the sort of transfer mechanism that we anticipate being in place.

We will need to ensure that registrations for the UK market remain valid. That is one of the things that we need to address through the SI: an approach to ensure that essentially we grandfather UK registrations so that we do not suddenly have a situation where all those chemicals become illegal for the UK market.

**Baroness Sheehan:** You have mentioned transferring to a different regulatory system a couple of times. When will companies know which regulatory system they need to submit registrations for, so that they can comply?

**Dr Thérèse Coffey MP:** Again, I recognise the uncertainty that this causes businesses, but my assumption is that, as part of their preparation, they will already be identifying particular sorts of ONRs or other areas where it is best and most convenient for them.

**Baroness Sheehan:** But they are dependent on guidance from the Department, are they not?

**Dr Thérèse Coffey MP:** I would say that the vast majority of companies will already be part of the international supply chain, so they will already be largely well prepared. It is the smaller businesses where we will need to have more of a focus.

**Gabrielle Edwards:** We will need to tell them, if we are heading to a no-deal scenario, what the process is for registrations on the UK market. That would essentially be the grandfathering process.

As for companies having to transfer their registrations, yes, we are talking to them about what would be involved in that, but they are their registrations and, if they want access to the EU market, they will need to take action to deal with that. It will be their judgment as to when they do it.

**Dr Thérèse Coffey MP:** And how—which organisation they go through.

**Viscount Hanworth:** If I may, I will quote some of the testimony that we had at our round table regarding the costs of establishing a new registration: “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”. Could I ask you to react to that, in view of your previous assertion about the costs?

**Dr Thérèse Coffey MP:** This is where the complexity of different stages of chemicals comes in, which has been my kind of learning as we have gone along. You might somehow have four different companies involved in creating a registration. One of those companies may not have access to the entirety of the data submitted to ECHA. That is part of the challenge that is leading to those rather large-value estimates of what may be needed in order to recreate all sorts of registration material, if we are not in a position where the EU agrees to continue and effectively grandfather existing registrations. That is my assessment.

**Viscount Hanworth:** It could be very costly.

Q22 **Lord Selkirk of Douglas:** What steps have you taken, Minister, to create a UK-based database to replace the REACH database in the event that we do not have access to it post Brexit? Are you confident that such a replacement could be ready to function by 30 March 2019 if required?

**Dr Thérèse Coffey MP:** Ministers have been meeting on this for some time and have agreed to the building of a new IT system. Yes, there is confidence. The plans have detailed delivery timelines for designing and procuring the IT systems, and there are ongoing reviews to ensure that they remain on track. Gabrielle has spent what probably feels like half her life dealing with this particular issue, so she might want to add a bit more about some of the processes that have been gone through.

**Gabrielle Edwards:** We are building a database or IT system that could be used if there was a no-deal scenario with the EU. By March 2019, we need a registration function in place, so that companies that need to register new chemicals have the ability to do so. Clearly, we would need to hold information on chemicals that we were grandfathering, so that their registrations remain valid in the EU system. We are trying to build a system that will replicate, as far as it can, what the ECHA system does.

Some of the fuller functionality that is not necessarily required on day one will come on board on a slightly slower timescale, but the critical thing for day one is to have that registration function in place.

**Lord Selkirk of Douglas:** I should have mentioned an interest. I am a director of a small family company with holdings of pockets of land; previously, I had a possible interest in one or two turbines, although I have to say that appears less likely today.

What, if any, access do you anticipate you may have to the data held in the REACH database post Brexit for the purposes of populating a domestic equivalent or avoiding the need for separate registrations in the EU and the UK?

**Dr Thérèse Coffey MP:** It is a matter for negotiation, as you can accept. I am quite bullish on this. I believe that, as long as we are a member of the EU, the data should be available and we should be able to download it, if that is what we need to do. I will not pretend that that has been agreed yet.

**The Chairman:** Cut and paste.

**Dr Thérèse Coffey MP:** Copy and paste—not cut.

**Viscount Ullswater:** Is there any problem with the intellectual property rights of the database that REACH holds? If we have this no-deal business and we clock out on 29 March, would we have a problem with that? It would make industry have to start from scratch again, more or less, on all the individual registrations.

**Dr Thérèse Coffey MP:** We have not made a decision yet, but my assumption is that we would have to make an assessment about whether just to accept the existing chemicals from other markets and automatically grandfather them without the data. That is not something you would instinctively feel comfortable about as a new regulatory body. That said, we have yet to make that policy decision. It is something Gabrielle has been giving a lot of thought to.

**Gabrielle Edwards:** You are absolutely right about data and some of the intellectual property issues. That is why it is so important that we are pursuing this and trying to get access to data through negotiations. If we are in a no-deal scenario, our expectation is that we would need to ask companies to resubmit data to the UK authority. Some of them will have ready access to that, because they own the data; for some of them, as the Minister mentioned, the data will have been put together or will be owned by another registrant, so that will be a more complex and potentially costly operation for the businesses.

**The Chairman:** Presumably, the absolutely basic thing we need is a list of the actual chemicals, so that industry does not grind to a halt, and we can say that those are the ones that you can legally use within the UK from the date of the new regime. There were about 17,000 of them at the last count. Presumably, you would feel confident in at least having that list?

**Gabrielle Edwards:** That would be the basic list of registrations that you would want to grandfather into the UK system, so that you knew which

they were. You would not necessarily need the full data package at that point, but you would need to know which registrations were valid.

**The Chairman:** Whether it is just copying it off the public website or whatever, as the Minister says, can you at least guarantee that that stage will not be a difficulty, or are there issues even with that?

**Dr Thérèse Coffey MP:** We do not want to create difficulties with that; we want to make it straightforward. Policy officials have been looking into it in considerable detail, because of our ongoing responsibilities in the future.

**The Chairman:** Ms Edwards is looking slightly sceptical.

**Dr Thérèse Coffey MP:** I know.

**Gabrielle Edwards:** Sorry. It is not straightforward. We are continuing to try to have discussions with ECHA to make sure that we have access to—

**The Chairman:** I am sorry. I understand that there may be certain things that you do not want or need to go into, but we as laypeople probably think it is amazingly straightforward. Could you explain to us why it is not straightforward?

**Gabrielle Edwards:** It is about levels of access to the ECHA system and being absolutely clear about what a UK-based registration is. It is obviously a lot clearer if you are looking at the whole registration database, but if you are trying to identify UK companies it becomes more complex. Even for data just about who those people are, there are issues about data and data ownership under the new GDPR. Those are the sorts of issues that we are trying to pursue with ECHA at the moment. I hope they will be resolvable. If not, we will have to look at other ways of getting hold of the data.

**The Chairman:** Presumably it is not just about what the UK manufactures; it is also about what we import. We want to know that what we import is something that we deem safe.

**Gabrielle Edwards:** Yes.

**Viscount Hanworth:** Presumably there are circumstances of commercial secrecy that the ECHA mediates. How do those issues come into it, and how would we circumvent them or cope with them if we did not have a very easy agreement with the ECHA?

**Gabrielle Edwards:** That goes back to the question of whether we would be able just to download all the data.

**Viscount Hanworth:** I am suggesting that commercial secrecy will prevent that.

**Gabrielle Edwards:** There are two different issues. There is the data on the registrants, and there is the data on the dossiers themselves that

support those registrations, where there are undoubtedly issues of commercial confidentiality. I am sure that ECHA will say that it does not own that data, and that the companies own it. This is why I think we will need to ask the companies to resubmit it to us.

In a no-deal scenario, the likelihood that we would just get that from ECHA is very very low.

**Viscount Hanworth:** Presumably the ECHA will have an embargo on releasing it to you, unless you have negotiated with the companies.

**Gabrielle Edwards:** That would be my assumption.

**Lord Rooker:** Are there any cost implications of the database? Do companies pay separately for the company to be on the database, or is that part of the original registration? Do we pay separately, or is it part of our EU subventions?

**Dr Thérèse Coffey MP:** We just pay into the overall Commission budget, and it gets allocated according to what is needed. I do not think that we specifically sign a cheque just to ECHA.

**Gabrielle Edwards:** Companies pay a fee to ECHA at the point of registration, and they will have paid that at the point when they registered. That means that, in future, there are some interesting issues for us about how you might start to recover some of the costs of running a registration operation.

**Q23 Lord Cameron of Dillington:** I declare an interest as a farmer, as a trustee at Rothamsted Research and as chair of the Centre for Ecology and Hydrology.

In his enthusiasm, the Chairman has already asked my question to some extent. It is about registration as an importer and an exporter, rather than registrations of chemicals, bearing in mind that the chemical industry is our largest exporter, 60% of those exports go to Europe, and it employs about 500,000 people.

In our seminar, we heard that some manufactured chemical goods cross the channel four or five times, and that if the transfer is between, say, the UK and France, the French company passing the goods back cannot register as an exporter at the moment because it is still under the umbrella of the EU, and the British company cannot register as an importer to the EU because it is already in the EU at the moment, so there is a problem. Have you explored the possibility of derogations for advanced registrations to allow companies to overcome that possible hiccup when we exit the EU?

**Dr Thérèse Coffey MP:** I will let Gabrielle answer that.

**Gabrielle Edwards:** This is the point we covered earlier. There is already some discussion in progress with ECHA about what sort of transition mechanism would be needed to enable companies to make arrangements in advance. As you say, REACH, as it is set up, does not envisage the sort

of situation that we might have to enable those things to become live at the point of exit. You could call it a derogation, or you could call it some sort of mechanism to enable those things to be ready to go.

**Lord Cameron of Dillington:** Have you discussed it with ECHA?

**Gabrielle Edwards:** We have had some discussions, yes. It is recognised in the guidance made available on the ECHA website that the issue needs to be addressed.

Q24 **Baroness Sheehan:** We have mentioned the thrust of my question in passing, but I will ask it more formally. If the UK were not to become an associate member of REACH, a new body would need to oversee the implementation of chemicals regulations in the UK. What action have you taken to prepare a UK body to take responsibility for chemicals regulation if the UK does not become an associate member of ECHA, and, secondly, are you confident that it will be ready to do so from 30 March 2019?

**Dr Thérèse Coffey MP:** As I articulated earlier, that is one of the things that still needs to be decided, but I am confident that the devolved administrations will agree to have this one system for the UK. While the final decision has not been taken, the HSE is an effective competent authority at the moment. Some of these things still need to be resolved. I am confident, of course, that we will be ready.

**Baroness Sheehan:** But you have not started on that work yet.

**Dr Thérèse Coffey MP:** It is fair to say that preparations are under way; I am just saying that some final decisions have not been made.

**Gabrielle Edwards:** We have very detailed plans, which we have worked out with the HSE and the Environment Agency for the capability we would need, what staff we would require, and how we would put practical arrangements in place such as ensuring that we have access to all the right technical advice. Those plans are to ensure that we have enough capability to operate the regime from March 2019. Clearly if you are in that scenario you would scale up over time, but we would have the basic capability in place in March 2019.

**Baroness Sheehan:** So there is no hold-up to your moving forward with your plans.

**Dr Thérèse Coffey MP:** It is about getting final agreement, I would suggest, within government and with the devolved administrations.

**Baroness Sheehan:** Is that with regard to funding?

**Dr Thérèse Coffey MP:** With regard to funding? What is the best way of saying this? We will require funding in order to fulfil the functions as required by law.

**Baroness Sheehan:** Has that been made available?

**Dr Thérèse Coffey MP:** We are not at the stage of needing to achieve that outcome.

**Gabrielle Edwards:** We have had additional funding from the Treasury to fund our 2018-19 costs to start building this capability. We have had to increase staff in Defra, the HSE and the EA to enable us to prepare. We have had funding to start the building of the IT system. Clearly, we have not yet got to the stage where we have absolutely secure funding for future years, because that is a discussion still to happen with the Treasury, but we are well down the road in developing a detailed business case for that work, and talking about that to the Treasury.

**Lord Rooker:** Will that all take place in England?

**Dr Thérèse Coffey MP:** At the moment, the HSE is focused on England.

**Lord Rooker:** Pardon?

**Dr Thérèse Coffey MP:** The HSE is based in England.

**Lord Rooker:** Yes, I know, but the fact is that if we are doing it through a UK body and a new body is being set up, where are the devolveds in this? They might say, "We'll take the registration bit that comes from Europe". Why should it be England?

**Dr Thérèse Coffey MP:** They may. As I articulated, there are some decisions still to be finalised.

**The Earl of Stair:** I want to develop that a bit, although this question does not relate to England as such.

In the regulation of chemicals and registrations, how do you intend to counter the potential for the illegal transfer of chemicals across the border in the island of Ireland? I can see great potential for substances being unregistered or non-permitted on one side and registered European on the other, and the movement of them, too. Have you given any consideration to what might be needed to control those movements?

**Dr Thérèse Coffey MP:** It is like any other good that could cross the border. Today, we have products that are illegal in this country and entirely legal in Ireland, so there are exactly the same risks today.

**The Earl of Stair:** I suggest that it is probably a bit more complicated than that. Yes, there have been movements backwards and forwards across for probably hundreds of years between the north and the south, and you can call it whatever type of movement it is, but we now have a situation where companies on both sides of the border are using the same chemicals, and there could be potential for moving them. It probably needs to be given more careful consideration than that.

**The Chairman:** As at any other time, Minister, if there is anything on which you want to come back to the Committee in written form, please contact our clerk.

**Q25 Lord Krebs:** I will slightly switch themes and ask about animal testing. At the round table, one of our witnesses told us that part of the benefit of the data-sharing arrangements of REACH was a drastic reduction in the testing of animals. It was pointed out that if we set up a separate system, we might have to increase animal testing. What safeguards do you intend to include in any UK chemical regulations to ensure that animal testing does not increase as a result of the UK's withdrawal from REACH?

There is also the equivalent question: if the UK withdraws from REACH, what would the impact be on animal testing in the other 27 Member countries of the European Union?

**Dr Thérèse Coffey MP:** The UK has been at the forefront of trying to oppose animal testing where alternative approaches can be used, so I understand why people might be concerned about others perhaps being more inclined, with the UK no longer being there, not to be quite as proactive on alternative approaches. However, standards established by REACH will continue to apply in the UK. If we can get one agreement whereby approvals for registrations can be in either market, of course that means that animal testing will not increase. We will need to consider these matters carefully.

**Lord Krebs:** Going back to the earlier question about no deal, if there were no deal and we were not an associate member of REACH, do you envisage that animal testing in the UK would have to increase?

**Dr Thérèse Coffey MP:** We would have to undertake a regulatory approach. If that required animal testing, it would require animal testing.

**Gabrielle Edwards:** The issue of animal testing is about whether or not new work has to be done, particularly on existing dossiers. In a no-deal scenario, we would want to ask companies to provide us with the data they already have, not to have to do any new tests for existing substances where there is already a registration. That system works well, and if companies manage to extract their data from the other companies there is no reason for there to be additional animal tests to deal with registrations that have already taken place.

**Lord Krebs:** But in the future, if we are running two parallel systems, there might need to be more animal testing, as we will have a registration system separate from the European Union's system.

**Dr Thérèse Coffey MP:** That is another good reason why we hope that the European Union agrees to our suggestion.

**Lord Krebs:** Yes, but I was specifically asking about no deal.

**Dr Thérèse Coffey MP:** I know. I have already answered that. If animal testing is required for UK registration for new chemicals, it is required.

**Q26 Lord Rooker:** Being positive about this, one of the arguments for Brexit is less red tape, less regulation and more flexible regulation. When

REACH was introduced—I declare an interest here in that it was introduced during my period at Defra—some companies complained about it. What discussions have there been regarding opportunities for changing regulation coming out of REACH?

**Dr Thérèse Coffey MP:** REACH used to be absolutely detested. Now it is absolutely adored.

**Lord Rooker:** The Common Fisheries Policy is exactly the same, by the way.

**Dr Thérèse Coffey MP:** It is fair to say that we would continue to have a framework that is pretty much aligned to REACH. We have been part of the team, or the country, that is making REACH effective. As will be widely said, many chemical regulation systems around the world are adopting a REACH-like approach. I think it was Swiss companies that suggested to us that there may be opportunities in not having to regulate all the interim proposals, just the actual product that you want to register as a chemical, rather than the six or seven steps along the way to creating the final product. We have not been giving any consideration to changing regulations as we leave the EU.

**Lord Rooker:** Have the Indian Government been in touch with you about relaxing regulations on chemicals?

**Dr Thérèse Coffey MP:** I have not heard anything about that.

**Lord Rooker:** I have seen reports that, as part of the price of a trade deal, they would want relaxation on chemical regulation.

**Dr Thérèse Coffey MP:** I am not aware. Nothing has come across my—I have not seen anything.

**Lord Rooker:** The same red tape and the same regulation, because it works. I am not putting words in your mouth, but that is more or less it.

**Dr Thérèse Coffey MP:** And it is trusted, and it will help business keep going.

**Lord Rooker:** Yes, so why are we leaving?

**Dr Thérèse Coffey MP:** You will have to ask the 17.4 million people who voted to leave.

**The Chairman:** That is outside the scope of the inquiry, Minister, so do not worry too much. We are not here to push that.

**Viscount Hanworth:** During my time in UK universities, I witnessed the widespread closure of departments of chemistry. If we had to establish and populate a UK version of REACH, do you imagine that there would be a special dispensation to allow us to recruit chemists from Europe?

**Dr Thérèse Coffey MP:** I know that the Government are very keen to make sure that people of talent will always be welcome in our country.

**Viscount Hanworth:** We can be assured that we will have the personnel.

**Dr Thérèse Coffey MP:** I did my degrees at UCL, but I was pleased to see that although King's closed its department, it has now reopened it. Chemistry is growing again, I believe.

**Viscount Hanworth:** That is tremendously good news. I am glad to hear that. We did appalling things to our chemical departments.

**The Chairman:** Minister, there is one other question I want to ask, and you brought it up yourself. One of the reasons we have come back to the subject is that the chemical industry is the second most important manufacturing industry in the UK. As regards liaison with the industry in working through all these issues, I suspect that a lot of companies are more used to dealing with BEIS or other bits of the Government. How are you ensuring that there is strong interaction with all the affected companies, small as well as large? How does it work, and are you being successful in that?

**Dr Thérèse Coffey MP:** I have held round tables myself, and officials continue to meet organisations and companies regularly—trade associations, in effect. They often represent a mixture of sizes of business.

I have been on visits in the Humber area and in Scotland, to try to understand the different scenarios that people are concerned about. Companies have come to see me, such as Johnson Matthey, which I have put on the declaration of meetings.

**The Chairman:** Is there a forum for that in any sense?

**Dr Thérèse Coffey MP:** I think I am going to it tomorrow.

**Gabrielle Edwards:** Yes. As the lead department for the chemical sector, BEIS has a group with some industry leaders to look at some of the issues. As the Minister said, she is attending it tomorrow.

We work very closely with BEIS and with HSE to ensure that we have joined-up conversations, particularly with the key trade associations across all the chemical regulators. REACH is only one of them, and they all speak to each other. That is working very well, I think. You would need to ask those in the industry, but generally they have said that they were happy with the level of discussion they have been having with us.

**The Chairman:** Good. Minister and Gabrielle Edwards, thank you very much indeed for giving us evidence.