

9<sup>th</sup> June 2020

Rt Hon Philip Dunne MP  
Chairman  
Environmental Audit Committee  
House of Commons  
London  
SW1A 0AA

Dear Mr Dunne

#### **CHEMICALS STRATEGY AND THE FUTURE OF CHEMICALS REGULATION**

- 1 CBA welcomes the opportunity to comment on the letter to the EAC from Rebecca Pow MP, Parliamentary Under Secretary of State at the Department for the Environment, Food, and Rural Affairs outlining the Government's strategy for chemicals and the future of chemicals regulation.
- 2 We recognise the immediate economic imperatives for the UK are to manage the aftermath of the Covid-19 pandemic, to weather the impending recession, and to emerge from the Brexit transition period with a pathway to growth based on agreed regulatory and trading relationships with worldwide markets as well as the European Union (EU).
- 3 These are tasks of daunting complexity and difficulty that have to be successfully addressed within a very limited timescale. Together, they represent a 'perfect storm' for UK business. CBA believes that now is the time for economic pragmatism to assume primacy over political ambition.

#### **Chemicals Strategy**

- 4 The UK's chemical industry offers a graphic illustration of the need for economic pragmatism. It is highly integrated, comprehensively regulated, and operates sophisticated international supply chains. It is essential for the UK to preserve a functioning and effective chemical sector that is a key supplier to the majority of the UK's manufacturing and process industries.
- 5 The migration of many chemical manufacturing assets to Asia and elsewhere in recent years has served to increase the need for the UK supply chain to be able to service the increasing demand for chemical components from manufacturing and process businesses as well as supporting research and development. The chemical sector is clustered mainly in the north of England in traditional centres of manufacturing which include many 'left behind' areas.

- 6 Accepting that work on a future UK chemicals strategy has ‘paused’ because of resources being diverted to Covid-19, there are key short-term issues with strategic implications that require immediate attention and resolution.

## **EU Market Access**

- 7 Despite many previous statements to the contrary, the Defra letter makes clear that the Government will not be negotiating a relationship with the European Chemicals Agency (ECHA) to support the UK chemicals industry and its supply chain.
- 8 The European Union (EU) accounts for 60% of the UK’s chemical exports worth £18 billion (2019). Trading with the EU requires compliance with its regulatory framework. Market access is solely dependent on regulatory compliance. No compliance means there can be no trade. The UK Government’s intended actions effectively prevents access to EU markets for many UK companies and makes continued access more expensive for others.
- 9 In the absence of a more positive stance by the Government, UK chemical businesses will have to create EU-based subsidiaries or forge close partnership with companies in member states in order to maintain access to EU markets. Either way, the UK is likely to lose economic growth, jobs, tax revenue, and innovation.
- 10 The Government’s decision appears based on its political determination to escape the jurisdiction of the European Courts of Justice (ECJ). Yet during the ten years, 2010-2020, the ECJ heard just 27 cases involving ECHA and only one of these involved a member state (France) as a party to the action. Given that the ECJ, in this context, makes adjudications between an EU regulatory body (ECHA) and an independent commercial entity, and in relation to a substance being placed on the EU market, it does not appear to affect the UK in any meaningful sense – or UK REACH, its embryonic domestic regulatory framework for chemicals.

## **UK REACH**

- 11 The Defra letter says it will ‘make the transit to UK REACH as simple and straightforward as possible by minimising its burdens and costs’. It also states that ‘having control of our own laws outweighs the costs’. Business appears to be the vehicle by which the Government’s political ambition (to be free of the ECJ) is to be funded. As referred to above (10), the ECJ has little or no influence over the evolution of a stand-alone UK regulatory framework.
- 12 Both references from the Defra letter (above) imply that Defra has conducted some form of Impact Assessment and calculated the potential cost to business of UK REACH. CBA believes transparency is required in relation to these specific costs as well as an estimate of the value of the administrative burden of UK REACH on an industry sector that has already invested many millions of pounds in its compliance with EU REACH.
- 13 Defra also claim to be engaged in ‘focused evidence gathering to better establish the costs of UK REACH and ideas to reduce them.’ CBA would be interested in learning more about this process which appears to be being conducted after the fact – as the framework for UK REACH is already in place. Nevertheless, CBA would like the opportunity to contribute to this process or at least review its outcome.

- 14 UK REACH is replacing a fully functioning regulatory system that, since 2006, has evolved and is accepted and recognised by the global chemical industry. The Government intends to replace it with an untried regulatory authority (the HSE) and a system (REACH IT) that has not been tested in practice.
- 15 Defra claims that the UK 'will not diverge for the sake of it and are avoiding change for change's sake'. From an industry perspective, Defra and the UK Government has failed to make the case for UK REACH as either necessary or desirable.
- 16 This new regime will, according to Defra, retain 'the principles and fundamental approach of the EU REACH system' and, in so doing, will impose both essentially a duplicative system and a major additional cost burden on an industry emerging from the Covid-19 pandemic, facing a significant recession, and a new framework for tariffs and border controls. Over 70% of the UK's chemical imports worth £25 billion (2019) come from EU member states.

#### **Access to data**

- 17 UK REACH requires a database of registered chemicals similar to that held by ECHA. This data includes chemical testing summaries, assessments, and reports to be used to support substance registration.
- 18 As CBA has repeatedly advised Ministers and officials, consortia of European companies own most of this data. UK companies pay a fee to its owner(s) for Letters of Access allowing the UK company to rely on the data set held by ECHA (such access is solely for EU REACH markets).
- 19 Selling access to this data is a commercial decision for its current owner(s) and will not be governed by the EU's REACH data-sharing rules. There is also anecdotal evidence that some EU-based chemical manufacturers will not make their data available for UK REACH, as they consider the UK market is too small to be of economic interest. They also may withhold access to this data to secure a transient commercial advantage.
- 20 If access to the data necessary to support a registration under UK REACH is not available, companies will have to start the process of duplicative testing before the registration process can even begin. This is unlikely to be completed within the UK Government's two-year time horizon.

#### **UK REACH - Fees**

- 21 The current plan to impose a fee structure for UK REACH broadly similar to that charged by ECHA is unsustainable on cost-benefit terms given the relative size of the UK market for chemicals. This additional cost burden is indefensible, unwarranted and disproportionate.
- 22 At the proposed level of fees, many EU chemical companies may consider the UK market is too small for their products to be commercially viable and will simply withdraw them from the market. This may significantly reduce the number of key chemicals available to UK manufacturing and process industries.
- 23 CBA would be pleased to provide further evidence to the EAC or answer any queries the Select Committee may have.

## **About CBA**

- 24 CBA represents the independent chemical supply chain. Its membership includes distributors, traders, warehouse operators, along with logistics and transport companies. CBA's members, the majority of which are SMEs, are the main industry interface with thousands of UK downstream chemical users.
- 25 CBA member companies have an annual turnover of £2.75 billion and employ more than 8,700 people distributing, packing, and blending key chemical components and services to virtually every sector of the UK economy. CBA's logistics member companies handle more than four million tonnes of chemicals annually.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Newport', with a stylized flourish at the end.

**Peter Newport**  
**Chief Executive**