

Chemicals regulation following the Brexit transition period

The chemical industry is its own biggest customer with chemicals moving across the channel several times before they become final products for societal benefit. The industry is UK's biggest manufacturing exporter, with Europe being our biggest market. Therefore, negotiating a future agreement with the EU which minimises cost and disruption is essential, not just for our sector to remain competitive but also for our key customer industries such as pharmaceuticals, automotive and aerospace. Trade flows amount to £46 billion between the two jurisdictions so a tariff-free, frictionless free trade agreement that enables regulatory consistency and access to skilled people are key priorities for the European industry.

Summary

- Remaining part of ECHA and REACH would be the most effective means to minimise disruption to business.
- In recognising that two separate legal frameworks will exist to regulate chemicals in the future, of key importance to our sector is that any future agreement recognises the economic and environmental logic of remaining closely connected to the REACH chemical regulation. The UK's proposal for a Free Trade Agreement paves the way through a sectoral chemicals annex.
- Both the UK and EU industry are stressing to negotiators for an agreement on chemicals that would as a minimum be closer than existing agreements the EU has with other third countries as well as a joint UK-EU collaboration to assess chemicals from a comparable and consistent dataset.
- The existing UK REACH regime attempts to create a parallel database in a way that would not only weaken the competitiveness of UK's manufacturing industry, it would potentially reduce the number of important chemicals on the UK market and do nothing to progress UK's chemicals strategy and related environmental ambition.
- In the absence of an agreed shared database mechanism between the UK and EU, UK REACH should acknowledge the level of work and expense already made with respect to EU-REACH and focus on prioritising and addressing chemicals of most concern.
- Looking to a future UK chemicals strategy, we believe this should recognise the essential role of chemicals to deliver climate ambitions and should be developed with five core principles in mind (Consolidation, Co-operation, Balance, Education and Learning).

Inclusion of a chemicals annex in a UK:EU FTA

Of key importance to our sector is that any future agreement recognises the economic and environmental logic of remaining closely connected to EU chemicals regulations such as REACH. This is essential if we are to avoid regulatory barriers in trading chemicals with Europe; minimising supply chain disruptions – both between chemical companies and with our key customers – and addressing the safety of chemicals in the UK. CIA remains convinced that continued participation in regulations would be the only option to avoid additional costs and administrative burden for companies on both sides the channel and the need to set up separate institutions in the UK, which is expected to be costly for the UK taxpayer and the chemical industry itself. However, recognising that two separate legal frameworks (UK REACH and EU REACH) will exist to regulate chemicals in the future, it is encouraging that the UK's proposal for a Free Trade Agreement proposes a sectoral chemicals annex, underpinned by data and information sharing mechanisms and a Memorandum of Understanding (MoU).

In doing so we have stressed to Government the importance of securing an agreement on chemicals that would allow:

- A data sharing mechanism between the UK and EU allowing the UK to assess chemicals without the need to duplicate costly data submission requirements;
- A cooperation agreement and MoU that is closer than existing agreements the EU has with other third countries given UK's contribution in implementing EU REACH to date. This includes the potential for joint UK-EU collaborations to assess chemicals from a comparable and consistent dataset.

The main benefits to such an approach would be:

- Allowing the UK to regulate chemicals from a more comprehensive dataset and minimise unnecessary divergence in managing chemicals across Europe.
- Prevent UK and EU27 businesses across all sectors from duplicating costly data submissions. The investment from the UK chemicals industry alone in EU REACH has been £0.5 billion to date. If an agreement on data cannot be secured, the anticipated cost is expected to exceed £1 billion for the sector and for some of our immediate customers alone.
- Assisting the UK's ability to negotiate trade deals globally.

UK REACH - the need for a more efficient and proportionate regime

The current UK REACH regime has been raising significant concerns for the chemicals industry and for many of our customer industries. Whilst the REACH Statutory Instrument and its subsequent amendments address some of the inoperability's identified to date, major concerns remain regarding the implementation of the future UK legislation - these are outlined below. In particular, we urge government to make available it's assessment on the costs of setting up and implementing UK REACH.

Creation of a UK Parallel database - The current UK REACH regime will require all businesses manufacturing and importing chemicals into the UK to provide a "full data package" that supported their original EU registration held on the ECHA IT system. Issues surrounding data access to meet this requirement within a 2-year timeframe are of paramount concern to business. The REACH regime requires businesses to submit information jointly for any one chemical, with ownership of the underlying data not necessarily sitting with UK companies. This approach has helped minimise cost and, of course, avoid any unnecessary or duplicate testing and has been no small task, with UK companies having heavily invested in gathering information on chemicals, assessing and sharing information on safe use to supply chains across Europe. Whilst companies may be able to gain permission to use these study summaries in resubmitting data under UK REACH, this is likely to generate additional cost to industry. To add to this challenge, there will be no obligation - and, in some cases, a commercial advantage – for EU-based companies not to share data with UK firms. This would force businesses to duplicate testing, including animal studies where data already exists or the UK accepting incomplete datasets, severely compromising the validity of the entire data collection exercise and undermining one of the fundamental principles of REACH. This becomes even more complex for UK's downstream user industries who are likely to be importing many more chemicals in the form of mixtures with each company having to generate or obtain access to data to potentially register every imported chemical, making the task extremely challenging for both industry and regulators.

Timeframe - Requiring companies to negotiate data for all substances registered over 10 years and submit this into a new REACH IT within 2 years is extremely ambitious, given the significant number of registrations companies would need to manage. It is critical to recognise that this is not a simple case of transferring information from one database to another and businesses will need to review

their entire registration portfolio and re-assess it for UK purposes. To put the 2-year proposal into context, EU REACH required three phased, tonnage-based deadlines over a period of at least 8 years. Other global REACH regimes (e.g. Turkey) have also required a much longer timeframe with a much smaller portfolio of substances expected to be registered.

UK REACH fees should be reviewed to reflect market size - UK importing businesses relying on EU registrations will need to register in the UK by paying EU equivalent registration fees to the UK Agency for substances that have already been registered by others in the EU. The cost to register one substance can be up to around £30,000, which is significant given that 75% of UK chemicals come from the EU. In addition, any new substance that may be manufactured or imported in the UK post Brexit would incur double fees if placed both on the UK and EU markets. As a consequence, there are concerns around not only the potential loss of key chemicals essential to our manufacturing industry but also to consumers in the UK. As the UK fees have been taken directly from EU REACH, they do not reflect market size (UK opposite EU27) and thereby urgently need amending to ensure the UK remains competitive.

The consequences of attempting to create a parallel database in this way would not only weaken the competitiveness of UK's manufacturing industry, it would potentially reduce the number of important chemicals on the UK market and do nothing to progress UK's chemicals strategy and related environmental ambition. In raising these concerns, we believe businesses have already complied and respected the 'no data, no market' principle of REACH once and therefore should not be forced to re-submit costly data. In the absence of an agreed shared database mechanism between the UK and EU, we urge that UK REACH acknowledges the level of work and expense already made with respect to EU-REACH by allowing those companies who deal in REACH registered supply-chains, to continue to do so without submitting a registration in the UK. Instead, UK manufacturers and importers of EU-REACH registered substances could notify the UK authority with key information (volumes, hazard classification, uses, extended Safety Data Sheets) enabling UK authorities to focus on prioritising and addressing chemicals of most concern. The UK authority would still be able to regulate substances of concern by asking the notifiers for supplementary data under a risk assessment evaluation program. Substances entering the UK market which have not been registered under REACH will have to provide the set of data required by UK REACH. Such an approach would enable the UK to build on the existing progress of the REACH objectives.

Chemicals Strategy

Whilst we are yet to see details on a chemical's strategy, we have welcomed the opportunity to inform Defra's thinking and will be making further contributions as the work resumes. Stressing the need for UK strategy to be underpinned by the three pillars of sustainability to which the industry has made good progress on and is striving to do more,¹ we have put forward core principles in order to achieve this:

- Consolidate by building on existing progress either through a close cooperation agreement with data sharing on REACH or acknowledging under UK REACH the existing compliance work in order to avoid duplicating costly data re-submissions and potential slow down delivery of our environmental ambitions. In addition, improving enforcement creating a level playing field between domestic manufacturing and imported goods.
- Balance policy decision making through embracing the innovation principle to inform policy and make sure we not only consider hazard and risk properties but also the potential benefits to society; with decisions being science-based through assessments and informed by cross-government coordination and strong regulator capacity;
- Learn from the past to strengthen future scientific assessments to enable informed decision-making for example, giving due weight to primary sources rather than focusing simply on

literature reviews in determining advice and policy decisions, and consideration of the idea of a “specialists’ register” to inform policy;

- Co-operate by establishing working arrangements to explore opportunities to reduce regulatory gaps between the UK, EU and other regions; and
- Educate society through working together to foster and enable an understanding and appreciation of science from an early age (primary school), to help better inform individual and societal decision-making around complex issues.

We hope this provides a useful summary of our views and look forward to informing the enquiry where necessary.

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¹ Economically, our sector accounts for around 10% of the value added by all of manufacturing to the UK economy and we are the largest exporter of manufactured goods. Socially, the sector lends itself to around 140,000 skilled and well-rewarded jobs, with a total of around half a million if you include those dependent on our industry. The average weekly pay in the industry 30% higher than rest of manufacturing and 50% higher than the wider economy in parts of the UK where it is most needed. Environmentally, the past 20 years has seen us reduce our greenhouse gas emissions by 70%; with an indirect saving for our customers of 2 tonnes of GHG for every 1 tonne emitted. The REACH regulation has seen us develop one of the world’s largest database, with more than 90,000 registrations for 22,000 substances.