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Rt Hon Philip Dunne MP  
Chair of the Environmental Audit Committee  
House of Commons  
London  
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4 August 2020

Dear Phillip,

Thank you for your letter of 6 July on the subject of chemicals regulation at the end of the Transition Period following my appearance before the EAC last month. This reply addresses the further points you have raised in your letter.

### **Registrations and the new UK REACH**

I understand the concern felt by the chemicals sector about costs that may result from businesses acting to maintain access to both the UK and EU markets after the transition period ends on 31 December 2020. There is particular concern about the costs of the transition to UK REACH, primarily because of the requirement to submit the data underpinning existing EU REACH registration dossiers to the UK authorities.

UK based manufacturers that want to retain access to the UK market will have their existing registrations grandfathered into UK REACH. For chemicals manufactured in the EU and imported to the UK, registration costs will be incurred, either by EU firms who would appoint Only Representatives in the UK, or by the UK importers / downstream users. In both cases detailed information will then need to be provided to the UK regulator in order to confirm the registrations and ensure compliance with UK REACH. As you have pointed out the issue here is that the data are not 'owned' by individual companies or by the European Chemicals Agency (ECHA); but rather by a commercial consortium of companies. Although there will be some UK companies who already own that data and others who can negotiate access to it for little or no cost, I recognise that there will also be others for whom obtaining that information might be both expensive and time consuming.

We have been listening to these concerns and that is why we have carried out a focused evidence gathering exercise with a number of key stakeholders (both from industry and NGOs) to better understand the costs associated with UK REACH and practical ideas to reduce the burdens to business. This focused on the issues and possible mitigations connected with the 2-year data submission deadlines in the UK REACH transitional arrangements. I am grateful to all those stakeholders involved for being so open with their experience and expertise at the evidence gathering sessions. There were some clear messages about the 2-year data submission deadlines and also about fees for UK REACH. We are now considering how to respond to the conclusions of this work.

## **Costs to business to maintain access to both UK and EU markets**

You have asked about the costs for business wishing to maintain access to both the UK and EU markets. As I have mentioned above, costs to businesses of obtaining the information required to access the UK market will vary depending on the ease and extent to which the company in question can obtain the data. This means that providing a single meaningful estimate is therefore not straightforward given the difficulty of capturing both the complexity and the varying impacts of what are unprecedented circumstances. Any estimate has high levels of uncertainty. These costs will apply to any company wanting to access the UK market, including EU firms.

As well as costs for accessing the UK market, UK based businesses wanting to place a chemical on the EU market will need to register that chemical with the European Chemicals Agency. That registration must be held by an organisation based in the EU. UK companies wishing to export chemicals into the EU after the end of the Transition Period would need to rely on their EU-based customers to register as importers or would need to transfer their registrations to an EU-based legal entity. I am pleased to say that ECHA published guidance on this in February 2019<sup>1</sup> which we have publicised to the industry. We are aware that many UK companies have moved their registrations or have made preparations to do so.

There will, therefore be costs for both UK and EU-based businesses and that is why we have set out in our published approach to negotiations that in order to enable businesses to meet the separate requirements of the two markets, the UK and EU could, as part of a Chemicals Annex, agree data and information sharing mechanisms. I believe that our proposal for a Chemicals Annex would be in the interest of UK and EU business. These negotiations are continuing and it is due to the sensitivity of these discussions that we are not able to provide more detail on the various costs that might be incurred by businesses here and in the EU.

You have also asked about fees. The planned fee structure reflects the charges made by ECHA, with an approach based on tonnage. The fees will be for new registrations, including ones from downstream users who will become importers and not for the holders of existing EU registrations that will be grandfathered into the system. SMEs will continue to receive discounts for all applicable charges under UK REACH, which will reduce fees by up to 90%. The fees are intended to contribute to the costs of HSE activities as the new UK REACH regulatory body, ensuring that it has the appropriate resources to fulfil its obligations as set out in legislation.

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<sup>1</sup> [https://echa.europa.eu/documents/10162/13552/how\\_to\\_transfer\\_uk\\_reach\\_registrations\\_en.pdf/1fb443ce-79de-6596-aae5-3f1033f1a5fb](https://echa.europa.eu/documents/10162/13552/how_to_transfer_uk_reach_registrations_en.pdf/1fb443ce-79de-6596-aae5-3f1033f1a5fb)

## **Other challenges**

You have asked whether businesses in Northern Ireland looking to trade into GB will have to hold registrations in both the EU and UK REACH. As you may know, on 20 May the Government published its approach to implementing the Northern Ireland Protocol, as part of meeting in full its obligations under the Withdrawal Agreement with the European Union. The paper sets out four key commitments that will underpin the UK Government's approach to implementing the Protocol:

- Deliver unfettered access for NI producers to the whole of the UK market;
- Ensure there are no tariffs on goods remaining within the UK customs territory;
- Give effect to our obligations without the need for any new customs infrastructure in Northern Ireland; and
- Guarantee that NI businesses will benefit from the lower tariffs we deliver through our new Free Trade Agreements with third countries.

We plan to publish additional guidance on arrangements in respect of highly regulated goods including chemicals.

## **Associate Membership**

The commitments made by the Government that the UK will have control of its own laws, with no alignment with the EU's or the EU's institutions, means that there is no possibility of us seeking associate membership of the ECHA and REACH. We will continue to discuss with the EU how best to manage our friendly relations, but any solution must be consistent with our red lines of retaining our own autonomy to follow EU law and not accepting the jurisdiction of the ECJ.

I am also copying this letter to the Chair of the HoL EU Environment Sub-Committee following the request in his letter on the subject of 9 July.

*George Eustice*

**RT HON GEORGE EUSTICE MP**