

SUBMISSION OF THE CHEMICAL BUSINESS ASSOCIATION (CBA) – Written evidence CRB0001

POST-BREXIT REGULATORY FRAMEWORK FOR CHEMICALS

(1) CBA is pleased to have the opportunity to outline the ambitions of the UK chemical supply chain for its regulatory relationship with the European Union (EU) post-Brexit.

(2) This note firstly considers the potential regulatory barriers to access to EU markets post-Brexit, and secondly, issues surrounding UK REACH, the embryonic regulatory regime for chemicals. Both are crucial for the future growth of the UK chemical sector and its ability to supply UK with key chemical components.

EU Market Access

(3) The EU is by far the largest trading partner for the UK chemical sector. It is the destination for 60% of the UK's chemical exports and the source of 70% of the UK's chemical imports. Continued market access and frictionless trade is essential.

(4) For almost all worldwide markets, access depends on regulatory compliance. It represents a legislated standard for consumer protection, human safety, and environmental management. The level of that compliance is set by the authorities in the specific destination market and is non-negotiable. Failure to comply is a barrier to market access. Without market access there can be no trade.

(5) If it is to maintain market access, the UK chemical sector has no alternative but to be a 'rule taker' – not just from the EU but also from many other jurisdictions around the world. This will remain the case until such time, when regulations are completely harmonised on a global basis.

(6) Since 2016, in order to maintain access to EU markets, many UK chemical firms have created subsidiaries in EU member states. Others have transferred EU REACH registrations to EU-based companies for the same reason. Similarly, we are aware of European-owned chemical companies repatriating products.

(7) Despite previous assurances, the UK Government has now made it clear that it has no intention of maintaining regulatory alignment with the EU in relation to chemicals. CBA has therefore advised its distributor member companies to protect their corporate interests and pursue the following options – before the end of the transition period – to secure continued access to EU markets.

- Transfer any current EU REACH registrations to an existing or new EU27 subsidiary.
- Establish a partnership with an EU-based company and transfer any current EU REACH registrations to that company.

(8) The chemical sector operates integrated supply chains involving a significant number of ingredients which are frequently subject to different processes undertaken by different companies in different locations before the end product is delivered to the customer. Even then, this intermediate product may only represent one component in the final product delivered to the end customer or placed on the downstream market.

(9) These factors place a premium on regulatory coherence across global chemical markets in order to protect consumers, the environment, and maintain high levels of chemical safety – whilst avoiding exponential increases in the regulatory burden on business.

UK REACH - A work in progress

(10) CBA has welcomed the recent DEFRA introduction of a phased implementation of UK REACH based on tonnage bands. But UK REACH remains a work in progress. Key issues remain unresolved.

(11) They concern testing data supporting UK REACH registrations as well as the fees proposed to fund this process. Both these factors are already acting as a disincentive for companies to register substances.

(12) A recent industry-wide survey ([here](#)) shows that one in five UK chemical companies plan to move their operations out of the country because of Brexit and the same proportion of non-UK companies are planning to reduce their UK operations. The same survey showed that a significant proportion of UK (7%) and non-UK companies (27%) have already made a decision not to register substances under UK REACH.

(13) The key issue remains access to testing data. UK firms do not own the testing data HSE needs to ensure an effective UK regulatory regime. The majority of this data is owned by consortia of European companies. The figure for non-UK ownership could be as high as 75%.

(14) The only pragmatic solution to guarantee the availability of this data is for the Government to negotiate access to the database of the European Chemicals Agency (ECHA). This will ensure consistent continuing safety, health, and environmental standards, avoid multiple registrations for the same product and the duplication of databases.

(15) Article 120 of EU REACH envisages such a co-operative third country relationship with the objective of achieving a wider and improved regulatory framework for chemicals. The alternative is to impose either unknown data acquisition costs or a major duplicative testing regime on UK REACH registrants with all the associated costs and increased animal testing this implies.

(16) Without access to the ECHA database, the industry estimates that UK REACH will cost an additional £1.2 billion to duplicate existing registrations. A single registration could cost up to €300,000 simply to gain access to the testing data owned by European companies. It is

worth noting that the data-sharing rules operating under EU REACH will not extend to UK REACH. The decision to sell, or not to sell, and at what price, is a commercial decision for the data owner(s).

(17) The DEFRA fee structure proposed for UK REACH is identical (a simple exchange rate conversion) to that charged by ECHA for access to the whole of the EU market. This is unsustainable on cost-benefit terms given the relative size of the UK market for chemicals which represents around 12% of the size of EU markets. It is a disproportionate and unsustainable cost on an industry emerging from the Covid-19 pandemic and its recessionary impacts.

(19) The unwarranted imposition of these fees plus the potential tariff increases on raw materials post-Brexit will force many companies to review the commercial viability of substances sold in the UK. This is a serious risk for the UK economy.

(20) The HSE has virtually complete control over the operation of the UK's new regulatory regime. Industry has doubts about the competence and the capability of the HSE to discharge this role. Unlike EU REACH, no independent oversight arrangements has been put in place - leaving HSE in the position of being judge and jury in its own court.

(22) Industry understands that HSE is in the process of a major recruitment exercise to provide the resources to support UK REACH. Some 600 applications have led to a shortlist of 200 people from which some 150 appointments will be made largely made up of recent graduates. This provides a further reason for industry's scepticism that HSE will not have the level of experienced regulatory management it requires to oversee UK REACH implementation effectively.

About CBA

(26) 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.

(27) CBA's distributor 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.