

THE CHEMICALS BUSINESS ASSOCIATION (CBA) – Written evidence (EEH0001)

(1) CBA welcomes the opportunity to submit evidence to the Sub-Committee on the UK-EU Trade and Co-operation Agreement.

(2) The following paragraphs provide an overall response to the UK-EU Agreement, focus on the contents of the chemicals' annexe, UK REACH, and consider the area of specific interest to the Sub-Committee – data-sharing. We also outline a CBA solution to this continuing issue which is central to the workability and affordability of UK REACH.

REACTION TO UK-EU DEAL

(3) CBA welcomed the UK-EU Agreement though we considered it a 'thin deal' and a long way from what the chemical sector required. Beyond the headline of 'No tariffs and No quotas', the Agreement heralds unwelcome non-tariff barriers that complicate trade with the UK's largest trading partner - the destination for 60% of the UK's chemical exports and the source of 70% of the UK's chemical imports.

(4) The Agreement introduces logistic delays and other supply chain issues through new and complex customs processes as well as a duplicative and unaffordable UK REACH regulatory regime. The acid test for the Agreement will be its ability to allow a strategic industry to continue to deliver key chemical components to the thousands of manufacturing and process industries in the UK and EU.

(5) The last-minute nature of the agreement with the EU and the absence of official guidance on the new rules and regulations means a period of pragmatic enforcement is essential. Industry must be given time to adjust and comply with the new regime.

(6) Industry organisations, like CBA, shoulder much of the burden in facilitating compliance with new regulations. We help member companies understand, implement, and comply with the new rules. To perform this function effectively, detailed official guidance is needed. Despite repeated requests, relatively little guidance has been provided to date on how compliance is to be achieved.

CHEMICALS ANNEXE

(7) Uncertainty remains concerning the precise meaning of terms used in the chemicals' annexe. For example, we need a definition of the term 'non-confidential information' to be exchanged between the UK and EU authorities.

(8) The use of this term, along with phrases forming part of the UK's negotiating position, such as 'removing technical barriers to trade' and UK-EU

co-operation 'including through sharing information on chemicals' led large sections of the industry to believe the UK had negotiated free access to the chemical testing data held by the European Chemicals Agency (ECHA). This belief was mistaken, but it is easy to understand how it gained currency. It now needs urgent clarification.

UK REACH

(9) The UK industry has already invested millions of pounds in EU REACH compliance. It is now facing the prospect of multiple registrations for exactly the same substances, the wasteful duplication of databases, and an unsustainable and disproportionate fee regime to be imposed by the Department for the Environment, Food and Rural Affairs (DEFRA) and administered by the Health and Safety Executive (HSE).

(10) The industry estimates the full cost of UK REACH could be up to £1 billion with the cost of testing data representing up to £800 millions of this total. The issue of access to testing data lies at the heart of the ability of UK REACH to deliver on its legislative objectives.

(11) The importance of finding a solution to the data-sharing issue cannot be under-estimated. Sharing data supports continuing high safety, health, and environmental standards and avoids the prospect of increased levels of animal testing. Significantly DEFRA has yet to share any meaningful legislation or detailed guidance on how UK REACH data sharing shall work. This needs to be remedied urgently.

DATA SHARING – A CBA PROPOSAL

(12) If the UK cannot gain access to ECHA's substance database for use in registering substances to UK REACH, a large volume of chemical test data will have to be acquired and submitted to the UK REACH IT system operated by the Health and Safety Executive (HSE).

(13) The 'One substance, One Registration' principle was enshrined in EU REACH and served to reduce duplicative animal testing. EU Substance Information Exchange Fora (SIEFs) were established to allow competing organisations to share sensitive information without risking a breach of competition law. EU SIEFs also handle new registrants through the enquiry system, arrange for new testing to be undertaken as part of the evaluation process and to introduce new uses for registered substances.

(14) These provisions of EU REACH in relation to SIEFs are not available to UK companies post-Brexit. A novel solution is needed that ensures UK REACH does not result in an excessive regulatory burden on the UK industry and avoids duplicative substance testing, especially tests involving animals.

(15) A solution which will accelerate the development of UK REACH, would be to allow European SIEF data holders to submit their full registration dossier already lodged with ECHA to UK HSE, regardless of whether or not they are based in the UK.

(16) UK REACH provision mean that a EU SIEF must appoint a UK-based Only Representative (OR) to be responsible for the submission of the data and any subsequent changes within the data package. CBA proposes that the HSE registration fee should be waived for these types of registrants as an incentive for data owners to populate the UK REACH database rapidly.

(17) This ensures that the same data currently held by ECHA would also be held by the HSE IT system – an important step for chemical safety and security.

(18) EU REACH participants based in the UK with valid EU REACH joint registrations obtained via a Letter of Access (LoA), would be able to negotiate - through the EU REACH SIEF - an LoA extension covering the UK REACH registration. This process would be free of charge or involve a small administration cost [as recommended by CIA & Cefic].

(19) New registrants for existing EU registered substances would contact HSE via a notification and would be directed to the European SIEF to obtain access to the relevant data package, as per the current EU REACH system. UK REACH registrants of substances not previously registered to EU REACH would undertake notifications to HSE, submit data to the appropriate revised deadlines under UK REACH, and pay fees to HSE for each registration.

(20) This proposal allows the UK to complete substance registrations within the published timescale and means that the UK HSE has the same data as ECHA, thus reducing the possibility of diverging data sets. The interpretation of data would be a matter for the HSE/HMG. Any differences of interpretation and their application within the sovereign territories of each party could be discussed under the provisions of the UK/EU T&C Agreement chemicals' annexe. If the European SIEF undertakes new tests or gathers further data, it would then update both ECHA (for EU REACH) and HSE (for UK REACH), so ensuring continuity.

ABOUT THE CBA

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.

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.