

Royal Society of Chemistry - Written evidence (EEH0003)

The Royal Society of Chemistry welcomes the opportunity to provide written evidence to the House of Lords EU Environment sub-committee.

This submission covers

UK-EU Trade & Cooperation Agreement – and the omission of a full and comprehensive data sharing agreement for chemicals

We have consistently called over a period of 3 years for close UK-EU collaboration on chemicals to be continued – in particular close regulatory cooperation and harmonisation on the sharing of chemical safety data and maintaining state of the art scientific knowledge.

Regulatory decisions for chemicals are intended to be focused most impactfully on hazardous substances of concern, to protect citizens and the environment from harms that can be caused if those chemicals were left unregulated.

Scientific evidence and facts are the bedrock of regulatory decision making for chemicals. Whilst the socio-economic aspects of a given situation are included in a balanced and transparent way in decision-making, scientific data is the only thing other than implementing precaution, that can enable one to balance the risks to an agreed level of protection.

To support effective regulation post Brexit, across the totality of chemicals regulation not just UK REACH, we have argued for continued, formal and uninterrupted close collaboration between the European Chemicals Agency (ECHA) and a new UK Chemicals 'Agency' (currently HSE (DWP) & Environment Agency (Defra), with support from PHE (DoH) and where relevant FSA (DoH) and OPSS (BEIS – for chemicals in products).

To enable regulatory cooperation between UK and EU there needs to be

- a) **A simple clear line of communication between a 'UK Chemicals Agency' and ECHA.** A UK Agency should be fully resourced, accountable and visible as a central authoritative regulatory body for chemicals, similar to the MHRA (for medicines) and FSA (for foods).
- b) **Discussion between UK and EU about harmonised or divergent safety decision-making for chemicals centred around the same trusted set of facts.**

If the UK and EU cannot see the same facts and evidence due to legal access reasons, how can cooperation and collaboration be achieved to benefit mutual trade?

This is a fundamental point of principle.

The difficulty is that some of the most important facts, which can shift the weight of evidence in a decision relating to chemicals safety, are confidential and owned as commercial assets by companies. Some of the key safety studies cost a few thousand Euro/GBP up to a million or more Euro/GBP. Studies are shared between companies only through legal agreements and as such companies that

performed the testing can continue to make money from selling their safety data, as a corporate asset, to other companies.

A new entry to the market using an existing chemical has to decide whether it approaches a company that is selling that data, such that the new entrant can pay for the data and use it in their regulatory applications, or whether it is quicker and easier to pay for a new chemistry/toxicology test themselves. The unintended consequence of this could lead to an increase in animal testing for example. It may be easier for a company to just redo the testing, rather than legally negotiate paying a competitor to ask for a letter of access to the data?

To discourage an increase in animal testing, the cost of data sharing must be lower than the cost to repeat the test.

If UK decisions are different from the EU decisions, and UK decisions are based on a different/lesser data package then UK citizens will lose trust in the UK process that is keeping them safe.

If decisions by the UK are based on comprehensive and robust scientific evidence then trust in the UK decisions will be strong and if UK can share the evidence with EU and rest of world, trust in our chemicals trade will be strong.

We appreciate the many legal and technical complexities in data sharing, and commercial sensitivities, and consider the options below:

- A) **Current approach to UK REACH** – industry within 6 years should have provided the new UK regulator with the full data package on all chemicals on the UK market, but this **is not guaranteed to be completed in practice**, and there will still inevitably be differences for some chemicals in the facts that UK and EU hold at the end of the day.
- B) **Establish a special UK-EU data sharing and cooperation agreement for chemicals** – such that both UK and EU can see the same facts on any given day, even if UK and EU take different decisions, according to national situations.
- C) **Champion a position that all chemicals safety data should be open access** through a central agency for all the world. This may be a long term global ambition that could take some time to achieve.

Recommendation: to ensure UK regulators are basing decisions on the same set of facts as our trading partners, as a matter of principle in any trade and cooperation agreement, not just the EU, **the trading partners must be able to see and discuss the same facts** for chemicals safety and production.

Trust in Chemicals

In **A Chemicals Strategy for a Sustainable Chemicals Revolution** we argue that the UK Chemicals Framework, which the Government is now implementing, should be based around high standards and global leadership, with world leading education, research & innovation, circular economy infrastructures and world-

leading regulation. We call for regulation that is pragmatic, based on science evidence and risk assessment, to enable innovation to thrive safely, sustainably and responsibly.

The RSC's view is that the drivers for a UK chemicals framework are strongly related to citizens' **'trust in chemicals'** for the purposes of business and trade and the protection of health and environmental standards.

Our work is also now reaching UN level of engagement on chemicals policy where on the RSC website you will see **our position calling for an intergovernmental panel for chemicals** and waste to be established that is on a par with the IPCC for climate change and IPBES for biodiversity loss. In the context of the evolution of UN SAICM (Strategic Approach to International Chemicals Management www.saicm.org) Beyond 2020, aspects of global data sharing in the future will also be relevant.

About the RSC

With about 50,000 members in over 100 countries and a knowledge business that spans the globe, the Royal Society of Chemistry is the UK's professional body for chemical scientists, supporting and representing our members and bringing together chemical scientists from all over the world. Our members include those working in large multinational companies and small to medium enterprises, researchers and students in universities, teachers and regulators.