

Chemical Industries Association – Written evidence (LPF0003)

About us

CIA is the organisation that represents chemical and pharmaceutical companies located throughout the UK.

The UK chemical and pharmaceutical industries have a strong record as manufacturing's number one export earner (on a value-added basis) and a provider of essential inputs to UK value chains. This includes products and technologies which are key enablers of climate change solutions. We therefore have a strong contribution to make both to rebalancing and greening the economy.

However, the chemical industry is energy intensive, competes globally for market share and inward investment, and has already done much to improve the energy efficiency of our existing production assets. Our contribution is therefore critically dependent on secure and competitive energy supplies and carbon reduction schemes which do not leave us internationally exposed. Energy is our number one issue.

What is at stake

1. Why are the negotiations on environment and the level playing field important to you/your members?

Below we explain the importance of a level-playing field in terms of the two key environmental and climate policies which originate in EU law.

EU Industrial Emissions Directive: EU law currently sets requirements to be implemented in UK, for example many environmental permit conditions are based on the updates to the BAT conclusions under the EU Industrial Emissions Directive. Implementing these requirements can require significant investments in the region of tens of millions of pounds at a single manufacturing site. The UK has previously been able to input sound and pragmatic information to the development of these requirements and industry has had opportunities to input technical data and make representations on how appropriate and effective requirements are likely to be as they develop. However, implementing these EU requirements where the UK and industry has not been fully involved in their development risks both damaging UK competitiveness and less effective environmental protections.

EU Emissions Trading System: The EU Emission Trading System (ETS) is the EU's mechanism for managing industrial greenhouse gas emissions through carbon pricing. The EU ETS applies a carbon price signal and carbon leakage protection uniformly across the EU, Iceland, Liechtenstein and Norway, with Switzerland linked to the carbon market via its own scheme. Within the EU ETS, UK manufacturers were already at a disadvantage, owing to the carbon price disparity between EU ETS and non-EU ETS manufacturing locations. The UK intends to leave the EU ETS and implement its own UK ETS, with a lower emission cap and trajectory. A lower emission cap and trajectory will drive up the price paid by UK manufacturers relative to their nearest neighbours, who will continue to be covered by the EU scheme. This puts UK manufacturers at greater risk of carbon leakage. The result of carbon leakage would be a loss of jobs, skills and revenue for the UK, in regions outside of the South East, with no benefit for the climate.

a. What should the environment and climate parts of the future relationship deliver?

Shared visions to ensure high levels of environmental protection to reach similar outcomes by collaborating where there's mutual interest, but with each of the UK and the EU able to develop and implement their own approaches. See also response to question 4.

2. What are the EU's justifications in pushing for the environment and climate level playing field provisions, and how sound are these?

The EU's justification for level playing field provisions are the same as ours. For example, on climate policies the EU wishes to maintain a uniform price-signal and carbon leakage protections so as not to lose manufacturers to the UK, should the UK's replacement for the EU ETS apply a lower carbon price to industrial greenhouse gas emissions. The EU is going further, by investigating the potential for border adjustment mechanisms (BAMs) that would allow EU manufacturers to compete with others around the world. A UK BAM could be used to apply a carbon

price to imported products, effectively applying a carbon price to manufacturers outside of our jurisdiction. The carbon price can also be refunded on UK exports to locations that do not currently apply a carbon price, allowing UK manufacturers to compete on a level-playing field both at home and overseas.

3. What is the thinking behind the UK's approach and proposals, and how viable are these?

No comment.

Costs and benefits

4. In which policy areas does the UK stand to lose flexibility by signing up to the EU's proposals, and what benefits could be brought by maintaining flexibility?

The majority of UK environment legislation is currently rooted in European directives and regulations. Of particular relevance to the chemical sector in the level playing field context includes industrial emissions and waste management. Commitments where the UK has reduced ability to influence the development of new rules risks impairing the UK's competitiveness because of the increased likelihood that future EU requirements would be less suited to the UK's regulatory frameworks, favoured approaches, industrial compositions, product portfolios, nature of processes, local and national priorities and concerns, etc. Additionally, the UK's implementation of environment law is robust and therefore the playing field only has the potential to be level where all implementation is robust, which is not a realistic outcome for the UK to assess on an EU basis. There are often trade-offs when it comes to environmental protection, which are in turn impacted by the local and national environmental conditions e.g. decreasing an impact on one environmental medium (such as air) may in turn result in an increased impact on another medium (such as water). Therefore, direct comparisons between and requirements for specific approaches may not lead to a playing field that is most effective to the UK's environment e.g. given the island characteristics. These considerations may not be accepted or appreciated during agreements on minimum requirements for industrial emissions as outlined in the draft EU text. Flexibility in these areas would ensure that the best decisions can be taken in the UK to protect the environment while preserving competitiveness.

On climate related policies the UK intends to set up a UK ETS, linked to the EU ETS. This would effectively apply EU rules to UK carbon pricing without the UK having a say. The EU ETS worked for the power sector, but does not work for energy-intensive, trade-exposed industry. Until our manufacturers have access to competitively priced clean heat and power networks, and carbon capture and storage (CCS) infrastructure, they are unable to decarbonise. Therefore, in the absence of a global carbon price, unilaterally increasing a UK carbon price signal will only cause foundation industries to offshore to manufacturing locations that place a lower cost on emissions. The effect will be to lose jobs and manufacturing capability at home and increase global greenhouse gas emissions. Given this fact, the UK government must consider all options for maintaining a level-playing field for UK industry, with the EU and the rest of the world. This could be achieved by: 1) Subsidising the production and consumption of clean heat and power and CCS technologies; 2) Establishing a global carbon price by encouraging greater ambition

elsewhere; 3) Providing cost-mitigation for an un-level playing field, via international carbon credits under Article 6 of the Paris Agreement; 4) Shifting the cost to the product consumer, through product labelling/ standards and carbon border tax adjustment mechanisms (BAMs).

a. What effect would level playing field commitments in a UK-EU agreement have on the UK's ability to do other trade deals, or the shape of those?

No comment.

5. Are there policy areas where the UK should be demanding level playing field provisions, to ensure that the EU maintains its environmental standards?

The UK has been a champion of climate policy within the EU. As we leave, there is a risk that the EU will become less ambitious comparative to the UK. We should demand level-playing field provisions, but more importantly we should design UK policy, that is more effective and reverses the trend of decarbonisation through deindustrialisation. See also response to question 4.

6. What could be secured or lost in the free trade agreement as a result of what is agreed on the environment level playing field?

This is difficult to answer with any certainty. FTA negotiations are a series of trade-offs and compromises. The UK aspiration should at least be to have environmental standards as high as those in the EU. And where the UK can go further, without negatively impacting company competitiveness, the UK would retain that right.

a. What would be the impact of no agreement in this area?

No comment.

Civil society participation

7. Do the UK and EU proposals provide appropriate routes for civil society and the private sector to raise concerns about the implementation of the agreement?

No comment.

Non-regression

8. Both the EU and UK have included clauses on upholding levels of environmental protection, what are the implications of the different approaches?

No comment.

a. How would the EU and UK's different approaches to non-regression affect UK policy-making?

No comment.

b. What happens if a party lowers their standards or level of protection under each approach?

No comment.

9. Must the agreement refer to the common standards that apply in the EU and UK at the end of the transition period to be acceptable to the EU, or could it refer to other standards in some areas, for instance those in international environmental and climate agreements?

From a policy perspective placing our environmental and climate ambition in the international context would give the UK greater flexibility on the route to getting there. However due consideration must also be given to EU policy making in these areas, to ensure domestic manufacturers are not undermined by international competition.

a. Would a reference to common standards in the EU and UK at the end of the transition period bring in the Court of Justice of the European Union (CJEU)?

Environmental principles

10. If the environmental principles are included in a UK-EU agreement, what difference would that make to policy-making and the decisions of courts in the UK?

It is important to recognise that these principles are only as good as their application in order for them to function effectively. It is therefore important that they are consistently applied firstly throughout the UK (i.e. England, Scotland, Wales and Northern Ireland). Inclusion of the principles in an UK-EU agreement may encourage a level playing field between the EU and UK in their application.

Enforcement and dispute resolution

11. What shape should the relevant enforcement and dispute resolution mechanisms take to be both negotiable and to help ensure that the agreement can be maintained in the long-term?

No comment.

a. Does the Office for Environmental Protection (OEP) meet the criteria of the 'independent body' required under the EU's proposal?

No comment.

Trade deals with the rest of the world

12. What effect would level playing field commitments in a UK-EU agreement have on the UK's ability to do other trade deals, or the shape of those?

It could reasonably be argued that level playing field agreement on environment and climate might make negotiating FTAs easier. Granted the UK would have less flexibility to diverge but both sides would immediately recognise those constraints prior to the start of negotiations. Because the UK is committed to the highest environmental standards it is not clear in what circumstance we might look to give ground to secure access elsewhere? For many overseas (US) invested chemical companies the UK continues to be viewed as a launchpad into the EU market and thus having certainty on the environmental requirements for the whole of Europe could save on administrative costs in complying with different regimes.

Reaching an agreement

13. Are there helpful precedents or creative proposals that the negotiators should be considering in the main areas of contention?

No comment.

14. Where do you see the landing zone between the UK and EU's positions?

No comment.