



Department
for Environment
Food & Rural Affairs

A Forward Look on UK Chemicals Policy

Simon Johnson - Defra





Current situation

- The United Kingdom left the EU on 31 January and entered into a Transition Period.
- During this TP the UK will remain within the EU REACH regulatory framework and the Regulatory obligations currently held by UK industry will be retained.
- This means that EU businesses will not need to take any immediate action in order to retain UK market access during this period;
- The Transition Period will end on 31 December 2020 and The UK Government has been clear that it will not be extended.



Negotiations

- The UK is looking to negotiate a deal like those the EU has previously struck with other friendly countries like Canada and negotiations to do so will begin shortly/continue over the summer.
- We have set out in our approach to negotiations specifically relating to a Chemicals Annex, that a deal should ensure high levels of protection for the environment and human and animal health
- It also puts forward that, to support industry, the UK and EU could agree data and information sharing mechanisms.



Next Steps

- The UK Government has been clear that regardless of the outcome of negotiations, we will no longer be a member of the customs union or single market after the transition period
- Nor will we accept any arrangement that keeps the UK under the jurisdiction of the European Court of Justice.
- This means that from 1 January 2021 **the UK will put in place its own independent chemicals regulatory framework, UK REACH.**



Establishing UK REACH

- The European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) will convert directly applicable EU law into domestic law, including the REACH Regulation.
- **This UK regulatory framework would:**
 - Mirror the existing EU systems as far as possible in order to minimise costs to industry.
 - Minimise disruption to supply chains for chemicals through our transitional measures (details to follow).
- **The Health and Safety Executive (HSE), will be the UK regulatory authority under UK REACH.**



What UK REACH means for industry

- **Both the UK and EU would operate REACH**, but the two systems would not be linked in any way.
- Businesses will need to take steps to ensure regulatory requirements are fulfilled on both sides of the channel in order to maintain continuity of supply chains.
- Companies from both markets would have ‘3rd country’ status in the other.
- **UK companies procuring chemicals directly from EU/EEA suppliers, will change from downstream users to importers under UK REACH.**



Actions for Business: Access to the UK Market - Transitional Measures

- All existing UK-held EU REACH registrations, authorisations, and imported substances (from EEA/EU) remain valid at the end of the Transition Period.
 - Existing UK-held EU REACH registrants have 120 days to provide UK authorities with some initial information.
 - All importers of substances from EU based registrants have 180 days to provide UK authorities with some initial information.
- Those companies then have 2 years after the end of the Transition Period for full registrations to be completed (by providing the full data package underpinning the existing EU registration).
- Joint registrations would be encouraged to minimise data duplication.

Actions for EU Business: Access to the UK Market - Transitional Measures

Option 1: Your UK customer will register the substance under UK REACH

- Use of the 'notification' provision is available for your UK downstream users to ensure continuity of supply at the end of the Transition Period.
- To notify they must provide some information to the regulator (the HSE) within 180 days of the end of the Transition Period.
- Your UK customer will then need to register the substance within 2 years of the end of the Transition Period.
- This will be classed as a new registration and will therefore be subject to fees payable to the UK Agency (the HSE).

Actions for Business: Access to the UK Market - Transitional Measures

Option 2: The EEA exporter would register the substance under UK REACH, using a UK-based entity

- EEA based exporters may choose to register the substance under UK REACH through a UK-based Only Representative or an affiliate UK importer.
- Your UK Downstream users may make use of the notification process to ensure compliance in the interim between the end of the Transition Period and registration obligations being taken up by your UK-based entity.
- If the EEA exporter takes on registration obligations via a UK-based entity, their UK customers will retain their downstream users status.



IT System: *Comply with UK REACH*

- ‘Comply with UK REACH’ will be ready to support registrations of chemicals in the UK from the point UK REACH comes into force.
- Its functionality has been built to facilitate new registrations and those transitional measures
 - register existing UK-held registrations (‘grandfathering’);
 - submit downstream user import notifications (DUIN); and
 - submit new substance registrations and PPORD notifications.



Maintaining EU/EEA Market Access

- REACH registrations and existing EU authorisations decisions held by UK entities would no longer be valid under EU REACH after the Transition Period.
- UK registration holders would need to transfer their registration to an EU-27/EEA Legal Entity.
- Alternatively, EU/EEA companies may register the substance themselves as an importer.
- CEFIC has issued advice on suspensive clauses to facilitate transfers.



New EU and UK REACH registrations

- To register a new chemical for the EU/EEA and UK markets industry would need to register with both REACH regimes.
- Under UK REACH that would mean setting up an account on *Comply with UK REACH*.
- Applications for authorisations would need to be submitted to the UK Regulator, the HSE.
- Under EU REACH the process remains unchanged.



Responding to Industry Concerns

- Throughout the process of developing UK REACH Defra has been consistent in its high level of engagement with industry.
- The feedback generated by these relationships, on both sides of the channel, has led to further improvements to UK REACH. For instance we have:
 - Laid two further amending Statutory Instruments to the REACH SI.
 - Continued development of the UK REACH IT system 'Comply with UK REACH' and associated joint registration policy.
 - Further developed processes for authorisation and restrictions.



Amending SI 1: OR Notifications

- An amendment to existing legislation was laid to account for downstream users of 'third country' registrations held by EU based Only Representatives.
- REACH SI now contains provisions where a chemical registered by an EEA-based only representative, imported directly into the UK from outside the EEA, can benefit from notification.
- Only Representatives (ORs) representing EU or third country importers to UK REACH will now benefit from these measures and be able to notify continued use of a substance on behalf of their downstream users.



Joint Registrations and REACH-IT

- We have always been clear that we want industry to replicate joint registrations as is currently the case in the EU.
- We have worked with industry stakeholders to develop the UK process and supporting IT tools.
- REACH IT will enable companies 'grandfathering' the same substances to see who else has done so.
- Downstream users can now provide details of all their substances in one spreadsheet



Joint Registrations and REACH-IT cont.

- Downstream users and importers will be added to substance specific groups once they have provided their initial information within 180 days, and subsequently undertaken a substance inquiry.
- No company will become the 'lead registrant' for a substance at this stage.
- We are developing further IT functionality to enable the assignment of the Lead Registrant and subsequent submission of the lead dossier and issuing of tokens to joint registration members.



Appeals

- The REACH SI does not create an equivalent to the ECHA Board of Appeal. Appeals against decisions of the UK Agency will be heard by the First Tier Tribunal.
- The procedures will be similar to those for other appeals heard by the FTT and there will be the same rights for companies or individuals to seek redress.
- There are no fees for taking an appeal to the First Tier Tribunal.



To sum up we recommend that UK and EU businesses:

- Identify the chemicals they manufacture, sell or use and their regulatory responsibilities with respect to that chemical in the UK market.
- Check contingency plans across their supply chain to understand what information they may need to provide to maintain UK and EU market access.
- Consider appropriate actions if the status of existing EU REACH registrations or authorisation could change.

Chemical Strategy

- The previous government committed to a new **Chemicals Strategy**, the first for 20 years. Our **last chemicals strategy was published in 1999**, since then domestic chemicals policy has been driven by the EU.
- The Chemicals Strategy will be developed to ensure a holistic approach to the sound management of chemicals, building on existing strategies, such as the Resource and Waste and Clean Air Strategies as well as new and upcoming strategies such as the Nature Strategy and National Food Strategy.
- The Strategy will also support the government's broader environmental ambitions such as the Net Zero target.



Chemical Strategy

- A **Chemicals Strategy** presents the opportunity to set out our ambitious approach to managing chemicals to improve the quality of our water, air, and soil, the biodiversity in our marine and land environments, and public health. Specifically, a Chemicals Strategy could:
 - consider **options to develop an early warning system for identifying emerging chemical issues**, considering how to address the tracking of chemicals in products, and working internationally on the standardisation of methods that assess chemical safety;
 - play a key part in **enabling the transition towards a circular economy approach**, building on existing commitments in our Resources and Waste Strategy;
 - consider **the impact of chemicals and chemical mixtures on human health**;
 - address concerns related to **endocrine disruptors (EDCs)** and the use of potentially toxic substances in furniture and household goods;
 - continue to evaluate different means to facilitate the **innovation of new technologies**;
 - consider how best to support industry in developing new approaches in the field of **green chemistry**.



Chemical Strategy

- Now we have left the EU we will be **accountable for many more regulatory decisions** and commensurate levels of external scrutiny and challenge. A clear, up-to-date statement on the Government's approach to chemicals policy will provide a firm foundation for future decision taking.
- We are working to build a **robust evidence base** to determine our priorities for action through publishing a Call for Evidence alongside procurement of scientific literature reviews.
- We will be publishing this Call for Evidence in spring 2020 and will be consulting on a draft strategy before its eventual publication, currently proposed to be in 2021-2022.





Further guidance

- For further queries or they wish to receive occasional updates related to EU Exit and Chemicals, contact: REACH-IT@defra.gov.uk