

## Briefing for second reading of the EU (Withdrawal) Bill, 30 and 31 January 2018

### Future chemicals regulation and the environmental risks of the UK leaving REACH

#### Summary

Leaving the EU's REACH (Registration, Evaluation, Authorisation and restriction of Chemicals) regime will potentially damage the UK economy, animal welfare, environment and public health.

The REACH regime is the most advanced in the world, protecting citizens and the environment from tens of thousands of chemicals.

Attempting to create a UK equivalent to REACH would be enormously expensive and time consuming. Some believe it will be impossible, as a single country cannot replicate its scope and expertise, and that leaving REACH could see the UK become a dumping ground for dangerous chemicals. It could also lead to increases in animal testing.

Even staying close to REACH by maintaining its registration rules or copying its decisions could make the UK vulnerable to legal challenges from businesses wanting to use dangerous chemicals because the UK would not have full access to chemical safety information to defend controls.<sup>i</sup>

Maintaining REACH for chemicals policy is the greatly preferable option. The chemicals industry itself is advocating strongly for the government "to do all it can to remain within or as close as possible" to REACH, saying that it regards continued engagement in REACH as the most cost effective way of securing the competitiveness of the chemicals sector.<sup>ii</sup>

The Permanent Secretary of the Department for Environment, Food and Rural Affairs recently wrote to Michael Gove requesting £5.8 million to create IT capability to 'enable the registration and regulation of chemical substances placed on the UK market'.<sup>iii</sup> Although it is the government's policy to prepare to leave the EU with no deal, it is important to note this database would not match the scope of the REACH database and represents great expense for taxpayers before the process of registration even begins.

## **What is REACH?**

The REACH (Registration, Evaluation, Authorisation and restriction of Chemicals) Regulation, supported by the European Chemicals Agency, is the world's most advanced system for controlling chemicals. Before it was established, industry was able to use thousands of chemicals without evaluating their safety, resulting in "justified concern" about significant increases in cancers, endocrine disruptions and environmental harm.<sup>iv</sup> It has taken more than 10 years for REACH to develop a database that assesses safety risks and regulates tens of thousands of substances. It replaces dangerous chemicals with safer ones, and makes manufacturers responsible for managing the risks. It also allows free movement of substances in the EU.

## **What are the potential alternatives to REACH?**

Two arguments have been advanced in favour of a more arms-length approach following Brexit: (i) it will be possible to abide by REACH's rulings without full database access, restricted to full participants in the regime; (ii) the UK could establish its own chemicals regime.

## **Why remaining close to REACH by copying decisions would be greatly inferior to remaining within REACH**

Simply copying REACH decisions without full participation would not provide adequate protection from dangerous chemicals. Copying decisions could leave the UK open to legal challenges from businesses that want to use dangerous substances. Without full access to background safety information informing decisions to ban or restrict substances, for instance, government would lack evidence to justify bans. Also, if the UK does not move as quickly as the EU in implementing bans in this scenario, it could become a "dumping ground" for substances no longer allowed on the EU market.

## **Why a UK REACH equivalent would add unnecessary costs and bureaucracy and could harm animal welfare**

Setting up a UK REACH equivalent after Brexit would involve starting from scratch at a time when pressures on resources – both in terms of finances and expertise – will already be strained. The UK will not be able to copy the existing REACH database, which covers 25,000 chemicals, and government itself admitted "that the cost of taking on the roles currently provided by the European Chemicals Agency could be in the 'tens of millions' of pounds."<sup>v</sup> This is likely to be a huge underestimate as, based on a pro rata distribution of current contributions, annual running costs for a chemical agency would likely exceed ten million pounds, before any set up costs and losses of economies of scale are included.<sup>vi</sup> Again in this scenario, if the UK does not move as quickly as the EU in banning substances, it could become a dumping ground for products containing dangerous substances banned in the EU.

Moreover, UK businesses will need to abide by and register with REACH to trade in Europe, meaning a UK equivalent would add more unnecessary costs and bureaucracy for industry, while any divergence would subject businesses to conflicting rules and unnecessary burdens. The Alliance of Chemical Associations recently found 70 per cent of businesses say the impact of a separate UK chemical regulatory requirements regime would be negative.<sup>vii</sup>

A UK-only system could increase animal testing, as any tests would have to be duplicated here if companies have to replicate safety information. It would also almost certainly see chemicals banned in the EU continue to be used here, as government has already told the Environmental Audit Committee that it might not follow EU bans in some cases.<sup>viii</sup>

## **The chemicals industry**

The chemicals industry, which employs 500,000 people in the UK, contributes £15 billion to the economy, and sends 60 per cent of its exports to the EU, is worried about having to duplicate the effort that has gone into thousands of chemical registrations that allow access to the single market, which the EU's chemicals agency has said it will regard as non-existent on exit day.<sup>ix</sup>

## **How could the UK stay in REACH after Brexit?**

The best way to keep the UK protected from harmful chemicals in post-Brexit Britain is to remain in REACH, for example by including it in any future free trade agreement (FTA) between the UK and the EU. Alternatively, the UK could maintain these protections if it remains in the European Economic Area (EEA), which REACH also covers in addition to EU member states. This means that a country like Norway can participate in REACH.

## **Conclusion**

Maintaining REACH for chemicals policy is the greatly preferable option. Alternative proposals would be less rigorous and would expose the UK to environmental harm and damage to human health, and also would either incur great expense or leave the UK open to legal challenge.

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## Endnotes

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<sup>i</sup> CHEM Trust evidence to the Environmental Audit Committee, <http://www.chemtrust.org/wp-content/uploads/chemtrust-eac-brexit2-oct17.pdf>

<sup>ii</sup> Chemicals Industries Association open letter to Michael Gove, 7 December 2017

<sup>iii</sup> Clare Moriarty letter to Michael Gove, 18 January 2018.

<sup>iv</sup> [European](#) Commission, 21 February 2001, *White paper – Strategy for a future chemicals policy*

<sup>v</sup> EAC, 25 April 2017, *The future of chemicals regulation after the EU referendum*

<sup>vi</sup> In 2016, the ECHA budget was 107.4 million, and the UK accounts for around 10 per cent of EU chemical industry sales, meaning a pro rata distribution of regulatory expenses would exceed €10 million for the UK, in addition to several million pounds that the UK already pays to regulate chemicals through the domestic Chemicals Regulation Directorate. Figures taken from European Chemical Industry Council, 2017, *Landscape of the European Chemical Industry 2017*. The letter from Clare Moriarty to Michael Gove, moreover, indicates that a database capable of registering chemical substances placed on the UK market would cost £5.8 million before any registration or regulation actually takes place.

<sup>vii</sup> Chemical Watch, 5 May 2017, [‘Brexit raises fears over separate UK/EU chemical regulations’](#)

<sup>viii</sup> Resources Minister Dr Thérèse Coffey, giving oral evidence to the inquiry on 7 March 2017, suggested there could be “slight divergence” in chemicals policy following Brexit “because we do not agree with the need for a particular banning of a substance or that we can bring into existence the appropriateness of chemicals”

<sup>ix</sup> Chemicals Industries Association, July 2017, *The Chemical Industry – Brexit priorities for UK growth*

Greener UK is a coalition of 13 major environmental organisations united in the belief that leaving the EU is a pivotal moment to restore and enhance the UK’s environment.

Greener UK is working with CHEM Trust, a UK registered charity that works at European, UK and International levels to prevent man-made chemicals from causing long term damage to wildlife or humans.



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