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EU Exit – UK REACH

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UK/EU Chemicals trade and supply chains

UK and EU chemicals sectors and supply chains are heavily interlinked

- Chemical supply chains cross borders, and a finished item can cross EU borders several times.
- The EU is the largest export market for the UK chemical industry, accounting for 60% by value in 2017. In 2017, the UK's largest EU export markets were Germany, Netherlands and Belgium.
- The EU is the largest import market for the UK chemical industry, accounting for around 70% by value in 2017. In 2017, the UK's largest EU import markets were Germany, Netherlands and France.

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UK Preparations for No Deal

- **In the event of a no deal, the UK would:**
 - Ensure UK legislation replaces EU legislation bringing REACH into UK law.
- **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), would act as the UK Agency in a no deal.**



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What a no deal outcome 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.**

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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 for UK trade at the point of exit.
 - 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 point of exit for full registrations to be completed.
- Joint registrations would be encouraged to minimise data duplication.



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

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

- Use of the '**notification**' provision is available if your UK downstream user has imported the substance to be registered within **2 years** prior to exit.
- To notify they must provide some information to the regulator (the HSE) within **180 days** of the UK leaving the EU.
- Your UK customer will then need to register the substance **within 2 years** of the UK leaving the EU.
- 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 Cont.

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 our exit from the EU 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.



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No Deal: 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 exit.
- UK registration holders would need to transfer their registration to an EU-27/EEA Legal Entity (Guidance link to follow)
- CEFIC has issued advice on suspensive clauses to facilitate transfer at the point of exit.
- Alternatively, EU/EEA companies may register the substance themselves as an importer.

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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.

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Developments and preparations for No Deal since 12 April

Since the 19 March and 12 April Article 50 deadlines 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.
- Expanded engagement with industry and trade associations.



Developments during the Extension Period – 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.



Developments during the Extension Period – Amending SI 2: ‘in-flight’ Authorisations

- Where the latest application date (LAD) or sunset date for a substance passes before exit day, use of the substance in the UK would have to cease from exit day.
- Authorisation applications that fall into this situation will have their LAD and sunset date moved to 18 months after our day of exit from the EU.
- Previously fixed dates now changed to *date of exit*.
- Amends prior date capturing registrations eligible for ‘Grandfathering’ from 2 years prior to exit to 29th March 2017.



Developments during the Extension Period – REACH-IT

- ‘Comply with UK REACH’ will be ready to support registrations of chemicals in the UK from the point the UK leaves the EU.
- 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.



Developments during the Extension Period – REACH-IT cont.

- Downstream users can now provide details of all their substances in one spreadsheet
- Further rounds of targeted user research sessions and a new round of IT (with a focus on joint registrations) testing in a Model Office situation have taken place since March 2019.





Developments during the Extension Period – 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.



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Developments during the Extension Period – 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.

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Developments in the extension period – Authorisation and Restriction

- HSE and Defra held a series of stakeholder workshops in July.
- We are committed to transparency and effective stakeholder engagement in UK REACH.
- The UK will aim to largely replicate the processes and transparency of the existing EU approach.



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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.

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Ongoing Stakeholder Engagement

- Since April the Government has continued to engage with industry through a variety of avenues including:
 - Regular meetings with key stakeholders
 - Printed and digital public facing material
 - Online digital content such as Webinars and Podcasts.
 - Attendance at ongoing events including the ‘Business Readiness Roadshows’
- Our team would welcome further two way dialogue with industry on key issues facing the sector.



To sum up we recommend that UK 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.



To sum up we recommend that UK businesses:

- For more guidance on how to engage with UK REACH go to:
<https://www.hse.gov.uk/brexit/reach.htm>
- For more guidance on how to transfer UK registrations to EU legal entities go to:
<https://echa.europa.eu/>
- If there are further queries or they wish to receive occasional updates related to EU Exit and Chemicals, contact: REACH-IT@defra.gov.uk



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Questions?

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