



16 January 2019

Dr Thérèse Coffey MP
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs
Seacole Building, 2 Marsham Street
London, SW1P 4DF

Dear Thérèse

EU Committee report *Brexit: chemical regulation*

Thank you for your response, dated 4 January, to our *Brexit: chemical regulation* report. Unfortunately, it seems that a number of significant uncertainties and challenges remain, and given the short timescales involved this is cause for serious concern. We therefore request supplementary responses on the points below.

We asked whether you would automatically accept the EU-27-led chemical registrations into a UK system. You did not answer this directly, but your statement that EU-27-based companies “will not be able to register directly under an independent UK regime”, but will have to register through a representative or UK-based company instead, indicates that the 16,000 substances will not be automatically registered. Can you confirm whether that is correct? If so, please set out:

- a) what assessment you have made of the impact that the loss of access to those substances will have for UK manufacturing and business;
- b) what steps you have taken to inform UK companies of this potential eventuality, in the event of either a ‘No Deal’ scenario or a deal which does not allow the UK’s continued participation in REACH; and
- c) how quickly the Health and Safety Executive (HSE) would be able to process applications from those companies – i.e. the minimum period for which those chemicals may be unavailable in the UK.

Thank you for clarifying that although UK companies cannot appoint an EU-based ‘Only Representative’ until after Brexit, they can “take steps towards this appointment”. As we noted in our report, this could lead to a void of weeks or months before such companies are able to export substances to the EU. We urged the Government to work with the European Chemicals Agency (ECHA) to enable the transfer of registrations to take place before exit day despite the UK’s status as a Member State, and in your response you gave no indication that you are taking this step to support UK companies. Please confirm whether that is the case.

We requested details of the progress made to date in establishing a UK chemicals database, which as you are aware is a crucial element of Brexit preparation in this sector. Worryingly, you did not provide this information. Please do so, along with an assessment of whether the “essential industry user functions” to which you refer as the priority will be tested and ready for use by 29 March 2019, given the potential UK exit from REACH on that date.

We note that you have developed an alternative approach to populating the UK database, if it should be ready in time, by allowing UK-based companies two years to provide the information relevant to any registrations that have been grandfathered into the UK system. We question whether a two-year hiatus is genuinely in accordance with the ‘no data, no market’ principle, but welcome the time this allows companies to secure access to the necessary information.

However, you did not address our concern that it may not be possible to establish which of the existing REACH registrations originate from UK companies, raising the question of how they will be identified in order to be grandfathered in the first place. Furthermore, we understand from the Regulatory Policy Committee’s opinion on your impact assessment of UK REACH that you plan to grandfather 12,000 registrations into the UK system.¹ During our inquiry we heard that only 5,000 of the existing 21,000 EU REACH registrations are registered by UK companies. We therefore ask that you clarify on what basis these 12,000 registrations have been selected and how they have been identified.

We welcome your assurance that you will encourage the HSE to “[recognise] the validity of any animal testing that has already been undertaken and so avoid the need for further testing”.

Thank you for clarifying that the HSE will take on the role of ECHA in the event that the UK ceases to participate in REACH, in partnership with the Environment Agency. However, we asked you to clarify the means by which independent, expert and transparent chemical risk assessments will take place post-Brexit, thus replacing the systems of scientific input and independent review that are in place under REACH. You did not address this point, beyond vague and insufficient statements that you are preparing the HSE and Environment Agency to regulate chemicals “in a way that safeguards human health and the environment” and “building domestic capacity to deliver the functions currently performed by ECHA”. Please provide further information regarding the assessment processes that will be put in place, and the bodies or individuals that will be involved.

Thank you for clarifying that UK-held REACH registrations will be transferred to the UK system without a fee, and that registrations after that point “will attract the same fee as under EU REACH”. You also acknowledge that companies wishing to sell a chemical in both the UK and EEA markets will have to register it twice, in both the UK and EU REACH systems. What assessment have you made of the impact these factors will have on EU companies’ willingness to register their substances in the UK post-Brexit, and

¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770416/RPC18-4313_1-DEFRA_UK_REACH_Registration_Evaluation_Authorisation_restriction_of_Chemicals_-_IA_f_-_opinion.pdf

consequentially on the range of chemicals that will be available in the UK in the medium- to long-term?

Given the urgency of these issues, we look forward to a reply to this letter within 10 working days.

Lord Teverson
Chair of the EU Energy and Environment Sub-Committee