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European Union Committee

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23rd Report of Session 2017–19

# **Brexit: chemical regulation**

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### *Sub-Committee staff*

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## CONTENTS

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	<i>Page</i>
<b>Summary</b>	<b>2</b>
<b>Brexit: chemical regulation</b>	<b>3</b>
Chemicals and Brexit	3
This inquiry	3
REACH	4
European Chemicals Agency	4
Brexit concerns	5
Ongoing participation	5
Invalid registrations	6
Replacing the REACH database	8
Replacing ECHA	10
Costs to businesses	11
Alignment	12
<b>Summary of conclusions and recommendations</b>	<b>13</b>
<b>Appendix 1: List of Members and declarations of interests</b>	<b>15</b>
<b>Appendix 2: List of witnesses</b>	<b>17</b>
<b>Appendix 3: Glossary</b>	<b>18</b>

Evidence is published online at <https://www.parliament.uk/hlinquiry-future-of-reach/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

## SUMMARY

Although chemical regulation may seem like a niche area of Brexit considerations, chemicals are key components in products that we all use every day, and the UK exported £18 billion of chemicals to the EU in 2017. Both the chemical industry and the many supply chains that rely on it could be strongly affected if Brexit disrupts current arrangements. It is vital for both human and environmental health that these substances are regulated safely after Brexit, and in a way that allows chemical trade between the UK and EU to continue.

There is agreement between the Government, industry and NGOs that the UK's continued participation in REACH, the main system of EU chemical regulation, and continued membership of the European Chemicals Agency would be the best Brexit outcome. However, it is far from certain that this is a possibility. As a result, there is a lot that the Government must do to prepare for the UK's potential withdrawal from REACH. This includes:

- clarifying its intended approach to chemical regulation in the future;
- creating and populating a database of chemicals;
- preparing a UK body to take on the role of chemical regulation in a way that is independent, transparent and scientifically robust;
- enabling businesses, including small businesses, to take pre-emptive action to maintain valid registrations for the EU market; and
- mitigating the economic impact on the chemical industry that would result from leaving the EU system.

None of these actions is easy or quick to accomplish.

We were concerned by the Minister's response to these issues: we are not convinced that the Government's preparations are progressing quickly enough, and in some respects the Government appears to lack a credible plan of action. This is highly troubling, given the cliff-edge that the sector is facing, and we believe the issue of chemical regulation post-Brexit should be a higher priority for Government.

# Brexit: chemical regulation

## Chemicals and Brexit

1. The chemicals sector is the UK's second biggest manufacturing industry after the food and drink sector, with an economic output of £12.7 billion.<sup>1</sup> 61% of chemical exports went to the EU in 2017, with a value of £18 billion,<sup>2</sup> and 73% of chemical imports came from the EU.<sup>3</sup> Furthermore, chemicals are used in many industries and in the manufacture of many products, including household and consumer goods and pharmaceuticals, which we all come into contact with every day.
2. The European market is regulated by the European Chemicals Agency (ECHA) in Helsinki. The UK's withdrawal from the EU, and the related potential loss of membership of ECHA, could have a far-reaching impact on the way chemicals are regulated in the UK, affecting which chemicals can be sold in the UK and exported to the EU, how safety assessments are conducted, and the charges applied for registering a substance.

## *This inquiry*

3. This short inquiry explored the implications of Brexit for the UK's continued participation in the EU chemical regulatory regime administered by ECHA, and what steps Government would need to take to set up its own system, if that were to be necessary. The report considers actions that will need to be taken no later than the point at which the UK ceases to be a party to EU systems and laws: this is referred to as "exit day", and signals either 31 December 2020 (if a transition period is agreed) or 29 March 2019 (if the UK leaves the EU without a deal).
4. The inquiry explored the Regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals, usually known as REACH. Other pieces of legislation address the regulation of specific groups of chemicals, such as biocides, pesticides, pharmaceuticals and cosmetics, but these were outside the scope of the inquiry.<sup>4</sup>
5. The EU Energy and Environment Sub-Committee, whose members are listed in Appendix 1, met in June and July 2018 to take evidence for this inquiry. We are grateful to those who gave oral evidence and to those who provided written contributions, all of whom are listed in Appendix 2.
6. **We make this report to the House for debate.**

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1 House of Commons Library, Brexit and Chemical Regulations (REACH), Briefing Paper, [CBP 8403](#), September 2018

2 *Ibid.*

3 *Ibid.*

4 The Health and Safety Executive has published guidance on the chemicals excluded from REACH: See: Health and Safety Executive, *UK REACH Competent Authority Information Leaflet Number 8: Exemptions* (July 2016): <http://www.hse.gov.uk/reach/resources/exemptions.pdf> [accessed 30 October]

## REACH

7. REACH, or Regulation (EU) 1907/2006, is the main piece of legislation covering the regulation of chemicals in the EU.<sup>5</sup> It was adopted in December 2006 and came into force in June 2007.
8. Its aims are to protect human health and the environment from the use of chemicals, to make manufacturers and importers of chemicals responsible for the risks associated with their use, to allow the free movement of chemicals on the EU market, to enhance the competitiveness of the EU chemicals industry, and to promote alternative methods of assessing the hazardous properties of chemicals.<sup>6</sup>
9. REACH sets out the process chemical substances must undergo to be placed on the market in the EU:
  - (1) Manufacturers and importers have to register a substance if they intend to import or manufacture a tonne or more of that substance per year. This involves providing information about its properties, hazards and any appropriate risk management measures. The ‘one substance, one registration’ principle means that manufacturers and importers of the same substance have to submit their registration jointly and provide consistent information.
  - (2) ECHA (see below) and Member States then evaluate the information submitted to reach a view on whether a substance constitutes a risk to human health or the environment.
  - (3) If a substance poses an unacceptable risk to human health or the environment, it is subject to restrictions. These might be an outright ban, or a limitation with a relevant condition (such as requiring technical measures or specific labels).
10. The EU Member States, plus three of the European Free Trade Agreement States (Norway, Iceland and Liechtenstein) through their membership of the European Economic Area (EEA), participate in REACH. There are currently no other participants: although both Switzerland and Turkey have enacted legislation mirroring REACH, their legislation was developed independently.<sup>7</sup>

### *European Chemicals Agency*

11. REACH is managed by ECHA. The Health and Safety Executive (HSE) is the enforcing authority in the UK, supported by the Environment Agency, and Defra is the responsible Government department.

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5 Regulation (EC) [No 1907/2006](#) of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC. This Regulation was made under the Single Market provision of the Treaty of the European Union.

6 Health and Safety Executive, ‘What is REACH?’: <http://www.hse.gov.uk/reach/whatisreach.htm> [accessed 4 October 2018]

7 House of Commons Library, Brexit and the Environment, Briefing Paper, [CBP 8132](#), August 2018

12. ECHA has over 500 staff from 27 European countries, and four scientific committees with experts from all Member States.<sup>8</sup> It has an annual budget of €109 million.<sup>9</sup> Its key role is to examine the information provided in the registration dossiers as part of the REACH application process. It also helps companies to comply with the legislation, and makes applicants' registration information available on its website.
13. ECHA has cooperation agreements with regulatory agencies in Australia, Canada, Japan and the USA, which facilitate the exchange of information about managing chemicals.<sup>10</sup>
14. **The chemicals sector is the UK's second biggest manufacturing industry, and provides substances that go into products we all use every day. Both the chemical industry and the many supply chains that rely on it could be strongly affected if Brexit disrupts current arrangements. It is vital for both human and environmental health that these substances are regulated safely after Brexit, in a way that allows chemical trade between the UK and EU to continue.**

### Brexit concerns

#### *Ongoing participation*

15. As Dr Thérèse Coffey MP, Parliamentary Under Secretary of State for the Environment, pointed out: "REACH used to be absolutely detested. Now it is absolutely adored."<sup>11</sup> None of our witnesses expressed a desire to leave REACH, and indeed Libby Peake, Senior Policy Adviser for Green Alliance, argued that REACH was becoming an international standard of chemical regulation: "Countries such as China and Turkey are moving towards REACH rather than away from it."<sup>12</sup>
16. The Government's white paper on *The Future Relationship between the United Kingdom and the European Union* stated its intention to seek associate membership of and ongoing participation in ECHA, to ensure that products only go through one approval mechanism to access both UK and EU markets.<sup>13</sup>
17. Our witnesses welcomed this objective,<sup>14</sup> but Anita Lloyd, Legal Director at Squire Patton Boggs, acknowledged the statement from the EU's Brexit Taskforce that the UK's decision to leave the Single Market automatically entails leaving ECHA.<sup>15</sup> Nigel Haigh, Honorary Fellow at the Institute for

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8 European Chemicals Agency, *ECHA General Leaflet* (2013) p 2: [https://echa.europa.eu/documents/10162/13556/echa\\_general\\_leaflet\\_en.pdf/0676baca-6e6d-4c6b-aca4-00ff867a29af](https://echa.europa.eu/documents/10162/13556/echa_general_leaflet_en.pdf/0676baca-6e6d-4c6b-aca4-00ff867a29af) [accessed 4 October 2018]

9 European Chemicals Agency, *Executive summary of the General Report 2017* (April 2018) p 3: [https://echa.europa.eu/documents/10162/23133404/executive\\_summary\\_en.pdf/b4061eb7-f22a-dbd3-f62c-95dc023c41af](https://echa.europa.eu/documents/10162/23133404/executive_summary_en.pdf/b4061eb7-f22a-dbd3-f62c-95dc023c41af) [accessed 5 October 2018]

10 House of Commons Library, *Brexit and the Environment*, Briefing Paper, **CBP 8132**, August 2018

11 [Q 26](#)

12 [Q 9](#)

13 HM Government, *The future relationship between the United Kingdom and the European Union*, Cm 9593, July 2018, p 21: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/725288/The\\_future\\_relationship\\_between\\_the\\_United\\_Kingdom\\_and\\_the\\_European\\_Union.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/725288/The_future_relationship_between_the_United_Kingdom_and_the_European_Union.pdf) [accessed 4 October 2018]

14 [Q 7](#) (Libby Peake, Anita Lloyd, Silvia Segna, Peter Smith)

15 [Q 7](#); the statement in question is available at: Cefic, 'Question and answer with Michel Barnier's team, the Brexit taskforce': <http://www.cefic.org/newsroom/News/QAs-with-the-Brexit-taskforce/> [accessed 4 October 2018]

European Environmental Policy, added that “the REACH Regulation has no provision allowing a third country to become an ‘associate member’ of ECHA”.<sup>16</sup> Ms Lloyd explained that Turkey’s regime “is very, very similar to REACH, but there is no direct link or mutual recognition”; Switzerland, she said, “recognises REACH authorisations and restrictions in its own system”, but businesses had to register substances through an EU-based company.<sup>17</sup> She added that, as participants in the EEA, Norway, Liechtenstein and Iceland “have full membership of REACH”, but “still do not have the right to vote”.<sup>18</sup> ECHA’s guidance on the implications of Brexit states that at the point of UK withdrawal, “British participation [in ECHA] will come to an end.”<sup>19</sup>

18. Dr Coffey told us: “We are conscious that nobody else has associate membership, but we would like to think that that is a matter of negotiation.”<sup>20</sup>
19. Regardless of whether the Government successfully negotiates continued participation in REACH, if a transition period were agreed the UK would remain subject to REACH until the end of 2020. Ms Edwards clarified that during that period, “Companies would continue to submit registrations and dossiers to ECHA ... [and] existing registrations would remain valid.”<sup>21</sup>
20. **We welcome the Government’s aim to continue to participate in REACH and ECHA post-Brexit, but we note that its red line on the UK’s membership of the Single Market after Brexit casts significant doubt on the feasibility of this aim. As a consequence, the Government must be fully prepared to manage an independent UK regulatory regime for chemicals immediately post-Brexit.**

#### *Invalid registrations*

21. If associate membership of and ongoing participation in ECHA are not negotiated by exit day, a number of challenges arise. The first is the fact that, barring any preventative action, all chemical registrations will become invalid in the UK, and all registrations made solely by UK companies will become invalid in the EU. This would prevent the trade and use of those chemicals. Peter Smith, Executive Director for Product Stewardship at Cefic, explained that there were 21,000 chemicals registered through REACH, 5,000 of which were registered by UK companies. However, Ms Bulleid made the point that where one of those 5,000 substances is registered jointly by both a UK-based company and an EU-27-based company, “some people will be able to put it on the [EU] market, but the UK registrants will not”.<sup>22</sup> Ms Lloyd agreed, stating that chemicals registered by UK companies will not be invalid in the EU “unless the only registrants of that substance are UK companies”.<sup>23</sup> As a result, UK companies will lose access to the EU market, but the number of chemicals that would be prohibited is unclear.

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16 Written evidence from Nigel Haigh ([RRB0001](#))

17 [Q 4](#)

18 *Ibid.*

19 European Chemicals Agency, ‘UK participation in ECHA’s bodies and networks’: <https://echa.europa.eu/uk-participation-in-echa-s-bodies-and-networks> [accessed 4 October 2018]

20 [Q 15](#)

21 *Ibid.*

22 [Q 2](#)

23 *Ibid.*

22. In terms of chemical use in the UK, Gabrielle Edwards, Deputy Director for Chemicals, Pesticides and Hazardous Waste at Defra, told us that the Government was drafting a Statutory Instrument that would, among other things, “ensure that registrations for the UK market remain valid”.<sup>24</sup> However, this appeared to refer only to registrations by UK companies: on the question of whether automatically to accept other Member States’ registrations, Dr Coffey stated: “We have yet to make that policy decision.”<sup>25</sup> Green Alliance commented:

“If, in the long run, the Government accepts EU registrations without being able to see all the data, it could leave the UK open to legal challenges from companies wanting to use dangerous substances for which the Government would not have full information to justify restrictions. If, instead, it requires chemical users to register substances here with equivalent levels of information to REACH, it could ... be a massive financial and bureaucratic burden for UK companies.”<sup>26</sup>

23. The Rt Hon Michael Gove MP, Defra Secretary of State, informed the Committee that UK-based companies can pre-empt such difficulties: “Companies can take steps now to transfer their registration to an EU-based affiliate or [representative].”<sup>27</sup> In sharp contrast, Ms Lloyd argued that it was impossible for UK-based companies to transfer their registration ahead of exit day:

“Until Brexit day the UK company is an EU manufacturer and so needs to maintain its registration. From Brexit day, the French company, let us say, is an importer. It was not an importer pre-Brexit and so could not have registered in advance, in anticipation, because it was not of the right legal status; it was not an importer at that point. Similarly, the UK company could not have appointed an [EU representative] in advance, because at that stage it was not a third-country manufacturer; it was an EU manufacturer ... if you cannot sort it out in advance of Brexit, because people do not have the right status, all those supplies are illegal until people get the registrations in place, which cannot happen straightaway.”<sup>28</sup>

We heard that there would be a void of weeks<sup>29</sup> or months<sup>30</sup> before such companies are able to export substances to the EU. Ms Edwards acknowledged this difficulty, stating that “there has been some discussion suggesting that you would need some sort of mechanism in place to enable those registrations to be transferred in advance”, but indicating that no such provision had yet been put in place.<sup>31</sup>

24. As Ms Lloyd pointed out:

“The chemical sector tends to be at the top of the supply chain. If the registrations or authorisations of UK companies become invalid on Brexit, there could be serious ramifications down the supply chain and

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24 [Q 21](#)

25 [Q 22](#)

26 Written evidence from Green Alliance ([RRB0009](#))

27 Oral evidence taken on 17 October 2018 (Session 2017–19) [Q 11](#) (Michael Gove MP)

28 [Q 9](#)

29 Written evidence from Marcus Navin-Jones ([RRB0002](#))

30 [Q 11](#) (Anita Lloyd)

31 [Q 19](#)

serious interruptions to the many billions of pounds' worth of trade in chemicals between the UK and the EU.”<sup>32</sup>

Similarly, Mr Haigh noted that both the Society of Motor Manufacturers and Traders and the European Motor Manufacturers Association had “issued statements expressing their concern that being outside REACH will affect their ability to import and export components or finished vehicles”.<sup>33</sup>

25. **The loss of access to 16,000 substances after Brexit would have a serious impact on the UK’s chemical industry and the many supply chains that rely on it. We urge the Government to clarify as a matter of urgency whether it would automatically accept EU-27-led chemical registrations into a UK system in order to avoid such a cliff-edge, and if so how it would address concerns regarding the use of chemicals for which it cannot access the information that supports that registration.**
26. **We urge the Government immediately to clarify in what circumstances it is possible for UK-based chemical manufacturers and importers to transfer their registrations to an EU-based party before exit day, and, where this is not currently possible, to work with ECHA to enable such transfers to take place, thus avoiding a trading hiatus that would seriously affect both UK and EU businesses.**

*Replacing the REACH database*

27. A key challenge arising from the UK’s potential departure from REACH is creating a new IT system and acquiring the data to populate it. Ms Peake informed us: “Defra has asked for £5.8 million to set up an IT infrastructure to register chemicals in the UK in the case of having to set up an independent UK chemicals regulation system.”<sup>34</sup> Ms Edwards stated: “We are trying to build a system that will replicate, as far as it can, what the ECHA system does. Some of the fuller functionality that is not necessarily required on day one will come on board on a slightly slower timescale, but the critical thing for day one is to have that registration function in place.”<sup>35</sup>
28. In the event a UK database is constructed and able to function on exit day, the question remains of how it will be populated. As noted in paragraphs 21–22, the Government is developing a Statutory Instrument that will ensure the 5,000 registrations by UK companies remain valid in the UK market, but although the overall figure is known, Ms Edwards acknowledged that it was “not straightforward” to identify which individual registrations originated from UK companies.<sup>36</sup>
29. Furthermore, Ms Lloyd pointed out that securing information even on these substances might be challenging where the dossiers included data owned by EU companies:

“REACH works on the basis of one registration for one substance, so companies group together and share data to avoid unnecessary testing and duplications. There are also data-sharing agreements between these groups of companies which supplement the Regulation. I can envisage

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32 [Q 1](#); also written evidence from Marcus Navin-Jones ([RRB0002](#))

33 Written evidence from Nigel Haigh ([RRB0010](#))

34 [Q 7](#)

35 [Q 22](#)

36 *Ibid.*

that either through the Regulation or those data-sharing agreements there could be scenarios where UK companies that have invested heavily in REACH, and data access, can no longer use that data outside of EU REACH: they might not be able to use it for a UK REACH system.”<sup>37</sup>

When we raised this concern with the Government, Claire Moriarty, Defra Permanent Secretary, told us: “That’s not something I’m aware of.”<sup>38</sup>

30. Even if information on the 5,000 UK registrations can be gathered, the UK would be without access to the data on the remaining 16,000 registrations— data that will be essential to allow the UK to assess whether a chemical is safe to use. Dr Coffey suggested that the UK could “copy and paste” the necessary data: “I am quite bullish on this. I believe that, as long as we are a member of the EU, the data should be available and we should be able to download it, if that is what we need to do. I will not pretend that that has been agreed yet.”<sup>39</sup> But CHEM Trust argued that “this approach is unlikely to yield the success anticipated by the Minister, due to the complex concerns around intellectual property rights of the data which is owned by chemical companies”.<sup>40</sup> Anita Lloyd and Stuart James from Squire Patton Boggs developed this point:

“If the UK Government wished to copy the whole or a significant part of the REACH Database, it would need to negotiate a licence to do this with ECHA (assuming that ECHA owns the rights in the database). Copying any significant part of the REACH Database without a licence would infringe the copyright and database rights ... This would be the case even if the UK Government were simply to seek to copy the publicly searchable elements of the REACH Database on a piecemeal basis.”<sup>41</sup>

31. Ms Peake was concerned that these difficulties in accessing the necessary data could lead to an increase in animal testing: “If the UK leaves the system and in a circumstance where it cannot access the safety information that is owned by EU companies, there is a possibility that we would have to re-conduct those animal tests in order to ensure the same safety standards in a UK system.”<sup>42</sup> Dr Coffey acknowledged this risk.<sup>43</sup>
32. **Swift progress towards establishing a UK chemicals database is crucial. We call on the Government to publish details of the progress made to date, and to set out its intentions for the database’s functionality, both immediately post-Brexit and in the longer term.**
33. **We have serious doubts about the Government’s ability to populate a UK chemicals database with the necessary data. The Minister’s proposal unilaterally to “copy and paste” registration information from companies based in the other Member States is not credible and raises serious legal concerns, including over copyright and data protection. We therefore ask the Government, as a matter of urgency,**

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37 [Q 1](#); also written evidence from Anita Lloyd ([RRB0012](#))

38 Oral evidence taken on 17 October 2018 (Session 2017–19) [Q 11](#) (Claire Moriarty)

39 [Q 22](#)

40 Written evidence from CHEM Trust ([RRB0005](#))

41 Written evidence from Anita Lloyd ([RRB0012](#))

42 [Q 8](#)

43 [Q 25](#)

**to set out an alternative, more considered approach to securing this information in the event that consent is not ultimately granted.**

34. **In addition, we find it extremely concerning that it may not be possible to establish which of the existing REACH registrations originate from UK companies. We call on the Government to set out the steps it is taking to resolve this issue.**
35. **We note that if the UK is not able to access the REACH database post-Brexit, some tests may need to be re-conducted to obtain the necessary safety information. We urge the Government to consider what steps it could take to minimise or eliminate the need for additional animal testing if this scenario arises.**

### *Replacing ECHA*

36. If the UK does not continue to participate in REACH it will need to establish a UK body to replace ECHA's functions. Ms Edwards told us: "We would clearly need people to operate a registration function and to do substance evaluation and take up the functions under the REACH Regulation."<sup>44</sup> She described building this capability as a "significant undertaking",<sup>45</sup> but added: "We have very detailed plans, which we have worked out with the HSE and the Environment Agency for the capability we would need ... to ensure that we have enough capability to operate the regime from March 2019."<sup>46</sup>
37. The HSE, as the UK's current competent authority for chemical regulation, is a potential candidate body, but Dr Coffey informed us that "the final decision has not been taken".<sup>47</sup> The guidance subsequently published by the Government on *Regulating chemicals (REACH) if there's no Brexit deal* states that the HSE would "act as the lead UK regulatory authority",<sup>48</sup> but it is unclear whether this would also be the case in the event of a more orderly exit from the EU.
38. Several witnesses and stakeholders questioned the means by which chemical risk assessment would take place post-Brexit.<sup>49</sup> Green Alliance argued:

"ECHA has several levels of oversight, including a Committee for Risk Assessment and one for Socio-Economic Analysis. These exist to provide transparency in decision-making, use of evidence, and advice. If the UK establishes its own system, it is entirely unclear how this transparency and oversight will be replaced or whether an equivalent or greater level of independence will be enshrined in law."<sup>50</sup>

Similarly, the Royal Society of Chemistry told us that "it is vital that there are structures in place to ensure chemicals regulation is informed by excellent and relevant science, including discussion of the scientific evidence", but

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44 [Q 18](#)

45 *Ibid.*

46 [Q 24](#)

47 [Q 24](#)

48 Department for Environment, Food and Rural Affairs, 'Regulating chemicals (REACH) if there's no Brexit deal', 24 September 2018: <https://www.gov.uk/government/publications/regulating-chemicals-reach-if-theres-no-brexit-deal/regulating-chemicals-reach-if-theres-no-brexit-deal> [accessed 5 October 2018]

49 [Q 8](#) (Peter Smith), Written evidence from Royal Society of Chemistry ([RRB0008](#))

50 Written evidence from Green Alliance ([RRB0009](#))

argued that there were several unanswered questions regarding how this would be accomplished.<sup>51</sup>

39. **We are deeply concerned that the Government has not started making preparations for equipping a UK body to take on the task of regulating chemicals post-Brexit. The Government must clarify what body will take on ECHA’s role if the UK ceases to participate in REACH, and the means by which independent, expert and transparent chemical risk assessments will take place post-Brexit.**

*Costs to businesses*

40. Several witnesses raised concerns about the costs to industry of leaving REACH. For example, we heard that transferring registrations/re-registering substances with ECHA if they are currently registered by UK companies could cost from £200 to £1,500 per registration.<sup>52</sup> Silvia Segna, REACH Executive at the Chemical Industries Association, estimated this cost to the UK and EU chemical industry as £450 million.<sup>53</sup> She also noted the costs of the administrative work involved. She told us that a company with 300 registrations “would need one person in the existing regulatory affairs team working full time for at least a year just to take up the administrative work to transfer these registrations, with a cost that could go up to £100,000”.<sup>54</sup> Furthermore, Ms Bulleid told us: “Most of our members have grave concerns about a dual regulatory system and feel that it would add to the costs and complications of compliance, particularly over time as the systems may diverge.”<sup>55</sup>
41. A witness from a company which currently places 50 products on the EU market set out the cost implications of leaving REACH:

“Even under a soft BREXIT costs will increase because of a duplication of work to comply with REACH and BREACH [British REACH] even if this is simply in administration costs. Significant costs will occur if duplication of registrations and testing is required within the UK. Where the company sells into the EU costs will further increase due to the need to have either an [EU representative] or a subsidiary presence. Raw material costs and/or availability after BREXIT will be a challenge and will also incur cost increases.”<sup>56</sup>

The witness stated that a worst-case scenario would mean “an initial annual cost of between £3m to £4.5m, with ongoing annual costs of between £0.5m to £1m”, adding that this could also have implications for the company’s continuing involvement in the EU market, potentially leading to the loss of 75–85 jobs.<sup>57</sup>

42. **It is unclear whether either UK- or EU-27-based companies would be charged for registering a substance with the UK system. We call on the Government to clarify this issue and to explain what steps it intends to take to mitigate the economic impact of the UK’s potential**

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51 Written evidence from Royal Society of Chemistry (RRB0008)

52 [Q 2](#) (Libby Peake), [Q 20](#) (Thérèse Coffey MP)

53 [Q 9](#)

54 [Q 2](#)

55 [Q 1](#)

56 Written evidence from a witness who wished to remain anonymous (RRB0007)

57 *Ibid.*

**withdrawal from REACH on the UK's second biggest manufacturing industry.***Alignment*

43. As noted above, REACH is now considered to be an international standard of chemical regulation. Dr Coffey informed us that, in the event the UK did not continue to participate in REACH, “we would continue to have a framework that is pretty much aligned to REACH”.<sup>58</sup>
44. Green Alliance described the phrase “pretty much aligned” as “worryingly imprecise”, and argued that such an approach “could leave British citizens with a lower level of protection from harmful chemicals to that of the EU’s system”.<sup>59</sup> For example, Ms Peake raised concerns that if the UK applied lower standards (or made decisions more slowly) than the EU it could become a “dumping ground” for chemicals that cannot be sold in the EU.<sup>60</sup>
45. Roz Bulleid, Head of Climate, Energy and Environment Policy at EEF, argued that there would be little economic value in the UK lowering its standards, noting that chemical manufacturers operating internationally already produce to the highest global standard: “There is no demand to make multiple products for multiple markets.”<sup>61</sup> Jean-Pierre Feyaerts, former head of the Belgian REACH helpdesk, acknowledged that this was generally true, but added that some global chemical manufacturers “may divide their production to different places in different countries when that strategy is more efficient”.<sup>62</sup>
46. **Given the large amount of chemical trade that takes place between the UK and EU, and the movement of international chemical markets towards the EU system, we support the Government’s intention to remain aligned to REACH post-Brexit. We call on the Government to clarify the extent to which it intends to maintain that alignment in the long term.**

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58 [Q 26](#)

59 Written evidence from Green Alliance ([RRB0009](#))

60 [Q 8](#)

61 [Q 11](#)

62 Written evidence from Jean-Pierre Feyaerts ([RRB0011](#))

## SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

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1. The chemicals sector is the UK's second biggest manufacturing industry, and provides substances that go into products we all use every day. Both the chemical industry and the many supply chains that rely on it could be strongly affected if Brexit disrupts current arrangements. It is vital for both human and environmental health that these substances are regulated safely after Brexit, in a way that allows chemical trade between the UK and EU to continue. (Paragraph 14)
2. We welcome the Government's aim to continue to participate in REACH and ECHA post-Brexit, but we note that its red line on the UK's membership of the Single Market after Brexit casts significant doubt on the feasibility of this aim. As a consequence, the Government must be fully prepared to manage an independent UK regulatory regime for chemicals immediately post-Brexit. (Paragraph 20)
3. The loss of access to 16,000 substances after Brexit would have a serious impact on the UK's chemical industry and the many supply chains that rely on it. We urge the Government to clarify as a matter of urgency whether it would automatically accept EU-27-led chemical registrations into a UK system in order to avoid such a cliff-edge, and if so how it would address concerns regarding the use of chemicals for which it cannot access the information that supports that registration. (Paragraph 25)
4. We urge the Government immediately to clarify in what circumstances it is possible for UK-based chemical manufacturers and importers to transfer their registrations to an EU-based party before exit day, and, where this is not currently possible, to work with ECHA to enable such transfers to take place, thus avoiding a trading hiatus that would seriously affect both UK and EU businesses. (Paragraph 26)
5. Swift progress towards establishing a UK chemicals database is crucial. We call on the Government to publish details of the progress made to date, and to set out its intentions for the database's functionality, both immediately post-Brexit and in the longer term. (Paragraph 32)
6. We have serious doubts about the Government's ability to populate a UK chemicals database with the necessary data. The Minister's proposal unilaterally to "copy and paste" registration information from companies based in the other Member States is not credible and raises serious legal concerns, including over copyright and data protection. We therefore ask the Government, as a matter of urgency, to set out an alternative, more considered approach to securing this information in the event that consent is not ultimately granted. (Paragraph 33)
7. In addition, we find it extremely concerning that it may not be possible to establish which of the existing REACH registrations originate from UK companies. We call on the Government to set out the steps it is taking to resolve this issue. (Paragraph 34)
8. We note that if the UK is not able to access the REACH database post-Brexit, some tests may need to be re-conducted to obtain the necessary safety information. We urge the Government to consider what steps it could take to minimise or eliminate the need for additional animal testing if this scenario arises. (Paragraph 35)

9. We are deeply concerned that the Government has not started making preparations for equipping a UK body to take on the task of regulating chemicals post-Brexit. The Government must clarify what body will take on ECHA's role if the UK ceases to participate in REACH, and the means by which independent, expert and transparent chemical risk assessments will take place post-Brexit. (Paragraph 39)
10. It is unclear whether either UK- or EU-27-based companies would be charged for registering a substance with the UK system. We call on the Government to clarify this issue and to explain what steps it intends to take to mitigate the economic impact of the UK's potential withdrawal from REACH on the UK's second biggest manufacturing industry. (Paragraph 42)
11. Given the large amount of chemical trade that takes place between the UK and EU, and the movement of international chemical markets towards the EU system, we support the Government's intention to remain aligned to REACH post-Brexit. We call on the Government to clarify the extent to which it intends to maintain that alignment in the long term. (Paragraph 46)

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTERESTS

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### Members

Lord Cameron of Dillington  
 Viscount Hanworth  
 Lord Krebs  
 Duke of Montrose  
 Lord Rooker  
 Lord Selkirk of Douglas  
 Baroness Sheehan  
 The Earl of Stair  
 Lord Teverson (Chairman)  
 Viscount Ullswater  
 Baroness Wilcox  
 Lord Young of Norwood Green

### Declarations of interest

Lord Cameron of Dillington  
*No relevant interests to declare*

Viscount Hanworth  
*No relevant interests to declare*

Lord Krebs  
*No relevant interests to declare*

Duke of Montrose  
*Family interest in livestock production, use of chemicals and veterinary products involved*  
*Member, National Sheep Association*  
*Member, National Farmers Union of Scotland*

Lord Rooker  
*Defra Minister when REACH was agreed in 2007*

Lord Selkirk of Douglas  
*As in the Register of Interests*

Baroness Sheehan  
*No relevant interests to declare*

The Earl of Stair  
*End user of printing, agricultural and forestry chemicals*

Lord Teverson (Chairman)  
*Director, KCS Trade Print Ltd*

Viscount Ullswater  
*Trustee of landed estate in Cumbria*  
*Extensive interests in farming, forestry, energy*

Baroness Wilcox  
*President, National Consumer Federation*  
*Founder, National Lobster Hatchery Federation*

Lord Young of Norwood Green  
*An interest in fracking (unremunerated)*

The following members of the European Union Select Committee attended the meeting at which the report was approved:

Baroness Armstrong of Hill Top  
Lord Boswell of Aynho  
Lord Cromwell  
Baroness Falkner of Margravine  
Lord Jay of Ewelme  
The Earl of Kinnoull  
Lord Liddle  
Baroness Neville-Rolfe  
Baroness Noakes  
Lord Polak  
Lord Soley  
Baroness Suttie  
Lord Teverson  
Baroness Verma  
Lord Whitty

During consideration of the report, the following Members declared an interest:

Lord Boswell of Aynho  
*Agriculture interest as in the Register of Members' Interests  
Declared shareholding in BASF*

Lord Cromwell  
*Partner in a farm partnership which farms organically but has tenants and contractors who use agro-chemicals  
Interests as declared in the Register of Members' Interests*

The Earl of Kinnoull  
*Various farming interests as principal and as Trustee, from time to time may use chemicals*

Baroness Neville-Rolfe  
*Chairman, Assured Food Standards Ltd*

Baroness Noakes  
*Interest in shares as listed in the Register of Interests, some of which will or may be affected by the arrangements covered in this report.*

Lord Whitty  
*President, Environment Protection UK*

A full list of Members' interests can be found in the Register of Lords' Interests: <https://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/>

## APPENDIX 2: LIST OF WITNESSES

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Evidence is published online at <https://www.parliament.uk/hlinquiry-future-of-reach/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with \*\* gave both oral evidence and written evidence. Those marked with \* gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

*	Roz Bulleid, EEF	<a href="#">QQ 1-12</a>
**	Anita Lloyd, Squire Patton Boggs	<a href="#">QQ 1-12</a>
**	Libby Peake, Green Alliance	<a href="#">QQ 1-12</a>
*	Silvia Segna, Chemical Industries Association	<a href="#">QQ 1-12</a>
*	Peter Smith, Cefic	<a href="#">QQ 1-12</a>
*	Dr Thérèse Coffey MP, Under-Secretary of State for the Environment, Defra	<a href="#">QQ 13-26</a>
*	Gabrielle Edwards, Defra	<a href="#">QQ 13-26</a>

### Alphabetical list of all witnesses

	Anonymous Witness	<a href="#">RRB0007</a>
*	Roz Bulleid, EEF ( <a href="#">QQ 1-12</a> )	
	CHEM Trust	<a href="#">RRB0005</a>
*	Chemical Industries Association ( <a href="#">QQ 1-12</a> )	
*	Cefic ( <a href="#">QQ 1-12</a> )	
*	Dr Thérèse Coffey MP, Under-Secretary of State for the Environment, Defra ( <a href="#">Q 13-26</a> )	
*	Gabrielle Edwards, Defra ( <a href="#">QQ 13-26</a> )	
	Jean-Pierre Feyaerts	<a href="#">RRB0011</a>
**	Green Alliance ( <a href="#">QQ 1-12</a> )	<a href="#">RRB0009</a>
	Nigel Haigh	<a href="#">RRB0001</a> <a href="#">RRB0010</a>
**	Anita Lloyd, Squire Patton Boggs ( <a href="#">QQ 1-12</a> )	<a href="#">RRB0012</a>
	Marcus Navin-Jones	<a href="#">RRB0002</a>
	Royal Society of Chemistry	<a href="#">RRB0006</a> <a href="#">RRB0008</a>

**APPENDIX 3: GLOSSARY**

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BREACH	British REACH
Defra	Department for Environment, Food and Rural Affairs
ECHA	European Chemicals Agency
EEA	European Economic Area
EEF	The Manufacturers' Organisation
HSE	Health and Safety Executive
REACH	Regulation, Evaluation, Authorisation and Restriction of Chemicals