



BRIEFING PAPER

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Brexit and chemicals regulation (REACH)

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Summary

What is REACH?

REACH is the main EU legislation for the regulation of chemicals in the EU (the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation). It is a single market measure applying in the European Economic Area (EEA), which includes the EU in addition to Norway, Iceland and Lichtenstein.

REACH requires substances that are manufactured in or imported into the EEA to be registered with the European Chemicals Agency (ECHA). It then provides a regulatory framework to control or restrict the use of hazardous substances based on those registrations.

REACH is important for improving the protection of human health and the environment from hazardous chemicals and for facilitating trade in chemicals across the single market.

The UK chemical industry

The chemical industry is a key manufacturing sector in the UK, accounting for 9% of total UK goods exports. Trade in chemicals is highly intertwined with the EU; 57% of chemical exports in 2018 went to EU Member states, and 72% of chemical imports came from the EU. Further, chemical products are used in many other manufacturing sectors.

Brexit implications and challenges

REACH is an example of EU legislation that is not straightforward to copy across into UK law. This is because the regulation relies on the integrated role of the ECHA and is closely tied to the single market.

REACH is a regulatory requirement for trade that impacts many UK manufacturing sectors that rely on chemicals. Manufacturing industries often have complex supply chains with chemicals crossing UK-EU borders many times.

REACH in the transition period

Following the UK's withdrawal from the EU on 31 January 2020, REACH continues to have effect in the UK until the end of the transition (or implementation) period according to the Withdrawal Agreement. However, the HSE will no longer participate in ECHA decision making.

REACH after the transition period?

The UK Government has stated that the UK would not participate in the ECHA or the EU regulatory framework for chemicals after the transition period. Instead the Government proposes to put in place a separate UK REACH regime. Chemical and manufacturing industry stakeholders continue to call for an agreement with the EU that ensures frictionless trade and regulatory consistency, ideally as close as possible alignment to REACH. The Government has proposed that the agreement could include an annex on chemicals with provisions for data sharing and cooperation.

A UK REACH

REACH would be retained in domestic legislation at the end of the transition period (currently expected to be 31 December 2020). Secondary legislation has been passed that would amend REACH in the UK to make it work in a UK-only context from that point.

The UK REACH Regime would establish a UK-wide market for chemicals applying to all chemical substances manufactured and imported into the UK. The Health and Safety

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Executive (HSE) would be established as the UK Chemicals Authority, taking over the functions of the ECHA. The Government says that the proposed UK REACH regime replicates the EU system as closely as possible, maintaining the fundamental aims and purposes of REACH including high standards of health and environmental protection. However, industry and environmental stakeholders have raised concerns that the UK REACH regime is not workable in practice, would be costly for industry and lacks transparency.

The [Environment Bill 2019-20](#) contains provisions that would give the Secretary of State powers to amend the UK REACH regime with the exception of certain listed protected provisions.

1. What is REACH?

REACH – the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation (No [1907/2006](#)) – is the main EU legislation for the regulation of chemicals in the EU.¹ It is a single market measure that applies throughout the European Economic Area (EEA), this means EU Member States as well as Norway, Iceland and Lichtenstein.

REACH requires substances that are manufactured in, or imported into, the EEA to be registered with the European Chemicals Agency (ECHA), along with safety information about the chemical and its uses.² This is referred to as the “no data, no market” principle – without providing the necessary safety data, companies cannot place their products on the market. REACH then provides a system for controlling or restricting the use of hazardous substances based on this data (see section 1.2).

REACH has several aims, including:

- to protect human health and the environment from the risks that can be posed by chemicals;
- to place responsibility onto industry (manufacturers and importers of chemicals) for understanding and managing the risks associated with the use of chemicals;
- to allow free movement of chemicals and substances in the EEA market, while also enhancing innovation and competitiveness in industry;
- to minimise animal testing by promoting the use of alternative methods of safety assessment and by facilitating data sharing of testing results.³

REACH is managed by the [European Chemicals Agency](#) (ECHA), based in Helsinki. The [Health and Safety Executive](#) (HSE) is the enforcing authority in the UK, and the Department of Environment, Food and Rural Affairs (Defra) is the lead Government department with overall policy responsibility across the UK.

How were chemicals regulated before REACH?

[REACH](#) came into force in June 2007. Prior to REACH, chemicals regulation across the single market was a patchwork of different regulations with different rules for “new” and “existing” chemicals.⁴ REACH was developed to have a single system of rules for all chemicals across the single market. Significantly, REACH placed the burden of

¹ There is also specific EU legislation for certain types of chemicals (such as biocides and cosmetics) and for the labelling and packaging of chemicals. For background information, see the Library briefing paper: [Chemicals Regulation](#) (11 August 2016).

² In quantities of more than 1 tonne and there are some specific exclusions, for example, radioactive substances and some naturally occurring low-hazard substances. See: HSE, [What is REACH?](#) [accessed 31 July 2018]

³ Health and Safety Executive, [What is REACH?](#) [accessed 22 August 2018]

⁴ European Commission, [REACH in brief](#), February 2007.

undertaking risk assessments for substances onto industry, rather than on public bodies.⁵

1.1 Why is REACH significant?

The chemical industry is an important manufacturing industry in the UK (see Section 2). Chemical substances also feed into the supply chains of many other manufacturing sectors. More than 22,000 substances are registered under REACH.⁶ This includes substances that are used in key UK manufacturing sectors, such as the aerospace, automotive and pharmaceutical sectors. It also includes substances used in the manufacture of everyday products such as cleaning fluids, paints, plastics, fabrics and electronics. Trade in chemicals is highly integrated within the single market and complex supply chains mean that products often cross borders multiple times.

In addition to its importance to trade, REACH regulates the safe use of chemicals to minimise harm to human health and the environment by providing a framework under which the use of harmful substances can be restricted.⁷ REACH also plays a role in keeping animal testing to a minimum, by requiring that animal testing can only be used to meet registration requirements as a last resort and by facilitating data sharing of testing results (see Box 1).⁸

1.2 How does REACH work?

Registration

Companies are required to register substances that they manufacture or import into the EEA (in quantities of more than 1 tonne). The registration (called a registration dossier) must provide information about the properties and hazards of the substance, and any risk management measures associated with its use. The dossier must be supported by scientific evidence such as the results of safety testing experiments.

REACH is based on the “one substance one registration” principle.⁹ This means that companies must submit joint registrations where they are manufacturing/importing the same substance, including sharing access to testing data (Box 1).

As of 14 February 2020, UK companies held 8995 EU REACH registrations (9% of total), encompassing 4898 substances (21%) and 1350 companies (8%).¹⁰

⁵ European Commission, [REACH in brief](#), February 2007.

⁶ European Chemicals Agency, [REACH registration statistics](#), accessed 13 February 2020.

⁷ ECHA, [Understanding REACH](#), [accessed 11 September 2018].

⁸ European Chemicals Agency, [How to avoid unnecessary testing on animals](#), accessed 20 September 2018.

⁹ ECHA, [Registration](#) [accessed 26 February 2020].

¹⁰ European Chemicals Agency, [REACH registration statistics](#) and [infographic](#) [accessed 14 February 2020].

Box 1: Data sharing under REACH

Registrants are expected to share safety and testing data needed for registration to avoid duplicate/unnecessary testing. This plays an important role in minimising the number of animal testing experiments carried out.¹¹

REACH requires registrants to make every effort to reach an agreement on sharing data. Firms negotiate and purchase access to the data required to support their REACH registrations; often this means the right to refer to the data in the registration dossier (through a Letter of Access), not full access to the data. REACH requires that the costs for sharing information for a registration are determined in a “fair, transparent and non-discriminatory way”.¹²

The ECHA webpages and guidance on [data sharing](#) provides more information.

Evaluation, authorisation and restriction

REACH provides a framework for banning or restricting the use of hazardous chemicals if risks cannot be managed.

National authorities (the HSE in the UK) evaluate registration dossiers and identify substances for which regulatory action should be prioritised by the ECHA.

Some examples of regulatory action include:

- Substances may be added to the Candidate List of Substances of Very High Concern (SVHC) which carries additional reporting responsibilities and may lead to further regulatory action.¹³
- Substances placed on the “Authorisation List” require an “authorisation” decision from the European Commission to use the substance for a particular purpose. Substances requiring authorisation are listed in Annex XIV of REACH.
- Substances considered to pose risks requiring EU-wide action can be “restricted”. Restrictions can take many forms, for example a total ban on a substance, bans on certain uses or concentrations, or requirements for technical measures or specific labelling. Restrictions are listed in Annex XVII of REACH.

For further information see:

[Understanding REACH \(ECHA\)](#)

[REACH Explained \(HSE\)](#)

ECHA committees and decision making

There are several ECHA scientific sub-committees that inform the ECHA’s decision making and advice to the European Commission. For example, the Committee for Risk Assessment, the Member State Committee and the Committee for Socio-economic Analysis.¹⁴

Most decisions for regulatory action under REACH – for example whether a substance should be restricted or subject to authorisation – are taken by the European Commission considering the advice of the ECHA and following consultation with Member States, the European Parliament and Council. Some decisions are taken by the ECHA directly, for example, to classify a substance as a SVHC.

¹¹ ECHA, [Registration: Data Sharing](#) [accessed 26 February 2020].

¹² ECHA, [Registration: Data Sharing](#) [accessed 26 February 2020].

¹³ These substances are included on the ECHA “[Candidate List of Substances of Very High Concern for authorisation](#)” but are not listed in the regulation.

¹⁴ ECHA, [Committee for Risk Assessment](#), [Committee for Socio-economic Analysis](#), [Member State Committee](#), [accessed 10 March 2020].

1.3 How do non-EEA countries trade chemicals with the EU?

Only companies registered/based in EEA Member States can register substances directly with the ECHA. Companies in non-EEA countries that wish to trade chemicals with the EEA market have the option to nominate an “[only representative](#)” agent registered in an EEA country to take over the responsibility of complying with REACH on their behalf.¹⁵ Alternatively, the obligation for compliance with REACH will fall to the importer of the substance to the EEA.

Switzerland¹⁶ and Turkey¹⁷ (where REACH does not apply) have enacted legislation that mirrors REACH but is developed and implemented separately in those countries. Swiss and Turkish companies wanting to sell products in the EEA market must still comply with REACH (as explained in the above paragraph).

The ECHA has “[cooperation agreements](#)” with regulatory agencies in Australia, Canada, Switzerland, Japan and the USA, which support exchanging information, best practice and knowledge regarding the management of chemicals (but not confidential business information).¹⁸

¹⁵ European Chemicals Agency, [Only Representative](#), [accessed 22 April 2020].

¹⁶ Swiss Common Notification Authority for Chemicals Website, [Chemicals Legislation and Guidelines](#), [accessed 22 April 2020].

¹⁷ Chemical Watch, [Turkey publishes law modelled on REACH](#), 29 June 2017.

¹⁸ European Chemicals Agency, [Cooperation with peer regulatory agencies](#), [accessed 27 February 2020].

2. Chemical industry in the UK

2.1 Summary

The following table summarises the economic contribution of the chemicals manufacturing industry in the UK.¹⁹

Chemicals manufacturing industry		
UK, 2019		
		% of UK
Economic output	£12.6 billion	0.6%
Employment	102,000	0.3%
Businesses	2,955	0.1%
Exports	£31.4 billion	8.6%
Imports	£34.6 billion	4.3%

Sources: ONS, [GDP Low level aggregates](#), [Business Register & Employment Survey](#), [Business counts](#); HMRC, [UKTradeInfo](#);

Industry defined as SIC code 20; Trade is for SITC product code 5, excluding 54 (pharmaceuticals)

Note: Economic output is Gross Value Added; Employment is for Great Britain and 2018; Trade is goods only

In 2019 the chemicals industry contributed £12.6 billion to the UK economy, 0.6% of total economic output. This was 7% of economic output from the manufacturing sector.²⁰

Employment in the chemicals manufacturing industry in 2018 in Great Britain was 102,000, 0.3% of total employment.²¹

In 2019, there were 2,955 business in the sector, 0.1% of all businesses in the UK.²²

Exports of chemical products (excluding pharmaceutical products) totalled £31.4 billion, 9% of UK goods exports by value.²³

Chemical products imports totalled £34.6 billion, 4% of goods imports by value.

¹⁹ Industry defined as [Standard Industrial Classification \(SIC\) code 20](#): the transformation of organic and inorganic raw materials by a chemical process and the formation of products.

²⁰ In terms of Gross Value Added (GVA); Source: ONS, [GDP Low Level Aggregates Tables](#), February 2020

²¹ ONS, [Business register and employment survey](#), 2019, via Nomis database (Great Britain, 2018 data)

²² ONS, [Business counts](#), 2019, via Nomis database

²³ HMRC, [UK Trade Info database](#), SITC code 5 (chemical and related products), excluding SITC code 54 (pharmaceutical products). Accessed February 2020

2.2 Chemical products trade

The following table gives more details on the chemical products trade in the UK.

UK trade in chemicals, 2019				
	Exports		Imports	
	£ billion		%	
EU	18.0	25.0	57%	72%
Non-EU	13.4	9.5	43%	28%
Total	31.4	34.6	-	-

Source: HMRC, [UK TradeInfo Database](#), accessed February 2020

Product code 5 (Chemicals and related products) excluding 54 (pharmaceuticals)

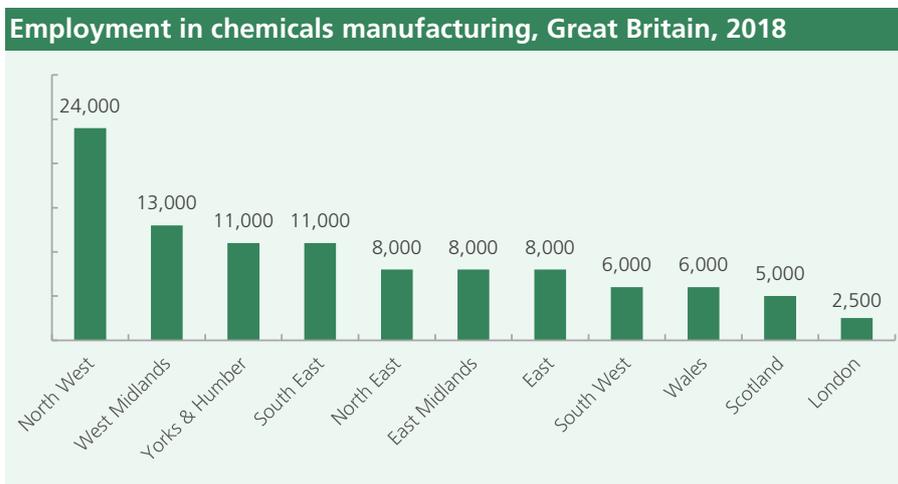
Chemicals are a major UK export, worth £31.4 billion in 2019, 9% of all UK goods exports. Imports of chemicals were worth £34.6 billion, 4% of all goods imports.

UK chemicals trade is focussed on the EU. 57% of exports were to the EU, and 72% of imports were from the EU in 2019.

2.3 Employment by region

Employment in the chemical manufacturing industry in Great Britain totalled 102,000 in 2018.

The following chart gives an indication of where in Great Britain the chemical manufacturing industry is concentrated.



Source: ONS, Business Register and Employment Survey, 2018, via [Nomis database](#)

Chemical manufacturing employment in the North West of England was 24,000 or 24% of the Great Britain total. The West Midlands has employment of 13,000 in the chemicals industry. Yorkshire and the Humber and the South East both have employment of 11,000 in this industry.

3. REACH and the transition period

3.1 REACH and the Withdrawal Agreement

The UK left the EU on 31 January 2020 on the terms of the [Withdrawal Agreement](#) agreed between the EU and the Johnson Government in October 2019. The Withdrawal Agreement was implemented in UK law by the [EU \(Withdrawal Agreement\) Act 2020](#).

Under the Withdrawal Agreement, REACH continues to have effect in UK law until the end of the transition period (also called the implementation period), currently set to run until 31 December 2020. This means that UK companies can continue to register chemicals with the ECHA and registrations and authorisations remain valid in both the UK and EU markets during this time. However, the UK no longer participates in meetings or decision-making of the ECHA and the HSE no longer acts as a leading authority to conduct assessments under REACH.²⁴

The following Library papers provide further information about the Withdrawal Agreement in general terms:

- [The October 2019 EU UK Withdrawal Agreement](#), 18 October 2019
- [Constitutional implications of the Withdrawal Agreement legislation](#), 20 February 2020.

For discussion on whether the transition period can be extended, see the Library Insight: [Coronavirus: Is it possible to extend the Brexit transition period?](#) 20 April 2020

3.2 Protocol on Ireland/Northern Ireland

The Protocol on Ireland/Northern Ireland in the Withdrawal Agreement sets out the arrangements that would take place to maintain an open border between Northern Ireland and Ireland, if the UK and EU are unable to conclude a new future relationship agreement by the end of the transition period. The [Library briefing paper on the Withdrawal Agreement](#) explains the Protocol in detail.

Under the Protocol, Northern Ireland would remain mostly aligned to the EU's regulations for goods at the end of the transition period, including REACH.²⁵ This means that EU REACH would continue to apply in Northern Ireland at the end of the transition period even if a separate UK-based regime applied in the UK. It is not yet clear how this would work in practice.

²⁴ [Withdrawal Agreement](#), Article 128(6). HSE, [Regulating chemicals \(REACH\) during the transition period](#), accessed 18 February 2020. See also the [Library briefing paper on the October 2019 Withdrawal Agreement](#) (18 October 2019) that describes institutional arrangements in the transition period.

²⁵ Article 7, Protocol on Ireland/Northern Ireland

4. Negotiating a future relationship

The exact nature of the UK's chemicals regulation regime, and the extent of any cooperation with the ECHA, after the end of the transition period will ultimately depend on the outcome of the ongoing future relationship negotiations between the UK and the EU.²⁶

For general background information, see the Library briefing paper on [The UK-EU future relationship negotiations: process and issues](#) (CBP8834, 2 March 2020) and Library Insight [What is happening in the UK-EU future relationship negotiations?](#) (7 April 2020).

4.1 Participation in the ECHA?

The [Political Declaration on the future UK-EU Relationship](#) agreed between the Johnson Government and EU in October 2019 included a commitment to “explore the possibility of cooperation” with the ECHA. However, neither the [UK Government](#) nor [EU](#) opening negotiating mandates (February 2020) refer to cooperation with the ECHA explicitly.²⁷

In a [February 2020 Westminster Hall debate](#) (on regulatory divergence and the UK chemical industry) Parliamentary Under-Secretary of State for Defra (Victoria Prentis) stated clearly that the Government would no longer participate in the ECHA or the EU regulatory framework for chemicals after the transition period:

Through various emanations, we have reached a position where we are definitely leaving the single market and the customs union, and we will no longer participate in the ECHA or the EU regulatory framework for chemicals.²⁸

She stated that the UK would establish its own chemicals regulatory regime (UK REACH) that would retain the fundamental approach of REACH but have the “freedom to do things differently where we consider that in our best interest.”²⁹ Section 5 of this paper provides information and commentary on the UK REACH Regime that would come into force at the end of the transition period.

Several opposition MPs raised concerns during the debate about the Government's approach, highlighting that a separate regulatory framework would negatively impact the UK chemicals industry (see Section 4.3 below).

²⁶ [PQ1750, 23 January 2020](#) [European Chemicals Agency]. HSE, [REACH during the transition period](#) [accessed 10 March 2020]

²⁷ PM's Office, [Our approach to the Future Relationship with the EU](#), 27 February 2020; 79 [Council Decision authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for a new partnership agreement](#), 25 February 2020.

²⁸ [HC Deb 26 February 2020, c157WH](#).

²⁹ [HC Deb 26 February 2020, c157WH](#).

The Johnson Government's position regarding the ECHA is a change in approach compared to Theresa May's Government. The May Government's preferred approach to chemicals regulation following the UK's withdrawal from the EU was to agree with the EU a form of "associate membership" or "active participation" in the ECHA (and other EU agencies in heavily regulated sectors).³⁰ The May Government's position was welcomed by chemical industry stakeholders³¹ and by the House of Lords EU Energy and Environment Sub-Committee in their [November 2018 report](#) on Brexit and chemicals regulation.³²

4.2 An Annex on chemicals in the EU-UK trade agreement?

The UK Government's [approach to the UK-EU future relationship negotiations](#) (February 2020) proposed that the agreement include an Annex on chemicals. The Government proposed that the parties could agree data sharing mechanisms in line with existing provisions in REACH for non-EEA country cooperation as well as committing to developing a Memorandum of Understanding to "enhance cooperation further":

Annex on chemicals

16. This annex should facilitate trade in chemical substances and related products and ensure high levels of protection for the environment and human and animal health. It could provide for cooperation between UK and EU authorities, including on implementing the Global Harmonised System of Classification and Labelling of Chemicals. In order to ensure high levels of protection and to support UK and EU businesses to meet the separate regulatory requirements of the two markets, the parties could agree data and information sharing mechanisms, in line with the relevant provisions set out in UK and EU regulation and existing third-country mechanisms.

17. This annex should also include a commitment to develop a memorandum of understanding (MOU) to enhance cooperation further, similar to the MOUs that the European Chemicals Agency has agreed with Australia and Canada.³³

See Section 1.3 of this paper for information about cooperation agreements with non-EEA countries on REACH. The Government has not provided further detail as to what such an Annex of cooperation agreement would include or how it would compare to existing third-country agreements.

The main provision in REACH relevant to data sharing with non-EEA countries is Article 120, which reads:

³⁰ Prime Minister's Office, [PM speech on our future economic partnership with the European Union](#), 2 March 2018; HM Government, [The Future Relationship between the United Kingdom and the European Union](#), 12 July 2018, Cm 9593.

³¹ CIA, [UK and EU chemical industry welcome draft Brexit agreement](#), 22 November 2018.

³² House of Lords, Select Committee on the European Union, Energy and Environment Sub-Committee, [Brexit: Chemical Regulation](#), 2017-19, HL215, 7 November 2018, para 20.

³³ PM's Office, [Our approach to the Future Relationship with the EU](#), 27 February 2020.

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Article 120

Cooperation with third countries and international organisations

Notwithstanding Articles 118 and 119, information received by the Agency under this Regulation may be disclosed to any government or national authority of a third country or an international organisation in accordance with an agreement concluded between the Community and the third party concerned under Regulation (EC) No 304/2003 of the European Parliament and of the Council of 28 January 2003 concerning the export and import of dangerous chemicals (1) or under Article 181a(3) of the Treaty, provided that both the following conditions are met:

- a) the purpose of the agreement is cooperation on the implementation or management of legislation concerning chemicals covered by this Regulation
- b) the third party protects the confidential information as mutually agreed.³⁴

The EU's [negotiating mandate](#) and [draft treaty text](#) do not specifically mention UK cooperation with the ECHA. Chemical substances are only mentioned in the context of the EU's proposed non-regression or "level playing field" provisions relating to environmental protection. The draft treaty text states that "environmental protection" includes:

- (ix) the prevention, reduction and elimination of risks to human and animal health or the environment arising from the production, use, release and disposal of chemical substances.³⁵

Background information the level playing field provisions in the context of the negotiations is covered in the Library briefing paper: [The UK-EU future relationship negotiations: Level playing field](#), 17 March 2020.

4.3 Stakeholder commentary

Industry stakeholders

Both the UK and European chemical industries, and other manufacturing industries have been clear in wanting the UK to remain as closely aligned to REACH as possible to reduce regulatory trade barriers.³⁶ Industry stakeholders argue that having separate UK and EEA-based regulatory systems would lead to extra costs for businesses that would compromise the competitiveness of the UK chemicals industry, disrupt supply chains or reduce the availability of chemicals in the UK/EEA markets.³⁷

In a [joint position paper \(PDF\)](#) published on 14 February 2020 by the UK Chemicals Industries Association (CIA) and European chemical industry trade body (Cefic) stated that the "immediate cost" of two regulatory

³⁴ [Regulation \(EC\) No 1907/2006](#), Article 120.

³⁵ [Draft text](#) of the Agreement on the New Partnership with the United Kingdom, 18 March 2020, Section 6: Article LPFS.2.30, paragraph 2 [accessed 22 April 2020].

³⁶ Chemical Business Association, [Regulatory alignment vital for chemicals sector](#), 27 January 2020 [accessed 19 February 2020]; British Coatings Federation, [BCF Blog - Brexit and a Future Trade Agreement with the EU](#), 23 January 2020.

³⁷ Chemical Industries Association, [Chemical Industry making Brexit work for the UK and the EU](#) press release and [position paper](#) (PDF), 14 February 2020; [UK-EU Negotiations](#), 25 February 2020.

systems was “expected to be £1 billion”.³⁸ When asked about the accuracy of that number during oral questions in the House of Lords in March 2020, Defra Minister Lord Goldsmith stated that the Government could not put a precise figure on the cost involved to businesses:

I am afraid I am not able to give a precise figure—I do not think anyone is capable of doing so—but we have had these discussions with industry and, as I say, with BEIS. It is the case that industry estimates are not a million miles away from our own but we cannot put a precise figure on them at this stage.³⁹

The UK Chemical Industries Association (CIA) and European chemical industry trade body (Cefic) published their [joint views on the future relationship negotiations \(PDF\)](#) on 25 February 2020.⁴⁰ The industry called for a “deep and comprehensive free trade agreement” including tariff and quota free trade in chemicals. The industry stated its “ideal scenario” would be the UK remaining in the EU REACH framework as an “active participant” in the ECHA, arguing this would be the best outcome to avoid market disruptions and maintain high environmental, safety and health standards:

...the UK and EU chemical industry needs an agreement that recognises the economic and environmental logic of remaining closely connected with regard to the REACH regulation, addressing the safety of chemicals and their placement on the market. Realising that ambition will be good for business, good for jobs and good for the health and safety of European workers and citizens on both sides of the Channel.⁴¹

The industry welcomed that the UK Government’s negotiating mandate appeared open to the possibility of negotiating a shared database for registration data,⁴² but said that a future trade agreement should go “beyond existing cooperation agreements” between ECHA and non-EEA countries.⁴³ See section 5.3 below for a discussion of data challenges for a separate UK REACH regime. The Government states that the transitional provisions included in the UK REACH regime (Section 5.2) are intended address industry concerns regarding cost and continuity of supply.⁴⁴

Concerns about lowering chemical safety standards

A UK version of REACH would come into force at the end of the transition period that would retaining EU standards on chemicals at that point (see Section 5 below). A separate UK chemicals regime as outlined by the Government means that the UK would not be obliged to follow EU decisions such as on authorisations or restrictions of chemicals going

³⁸ CIA and Cefic, [REACH related issues in the future relationship between the EU-27 and the United Kingdom \(PDF\)](#), February 2020.

³⁹ [HL Deb 16 March 2020](#), c1275.

⁴⁰ CIA and Cefic, [UK-EU Negotiations](#) press release and [joint views on the future relationship negotiations \(PDF\)](#), 25 February 2020.

⁴¹ CIA and Cefic, [UK-EU Negotiations](#), 25 February 2020.

⁴² Chemical Business Association, [CBA welcomes potential access to chemicals database](#), 4 March 2020.

⁴³ CIA and Cefic, [UK-EU Negotiations](#) press release and [joint views on the future relationship negotiations \(PDF\)](#), 25 February 2020.

⁴⁴ [HC Deb 26 February 2020](#) cc157-159WH.

forward. This has led to concerns about potential lowering of chemical safety standards in the UK if the UK diverges from EU REACH. For example, press reports and chemical safety campaigners have raised concerns that a trade deal with the US could see chemicals that are restricted in the EU allowed into the UK.⁴⁵

Campaign groups such as CHEMTrust and Greener UK have called for the Government to accept alignment with EU chemical-related laws to “ensure the best protection of our health and the environment”.⁴⁶ The House of Commons Environmental Audit Committee (EAC) in their July 2019 report on [Toxic Chemicals in Everyday life](#) recommended that the UK remain aligned to the ECHA’s candidate list for substances of very high concern and that “deviation should only happen where the intention is to increase safety standards by moving more quickly to restrict a substance of concern”.⁴⁷ Similar concerns have been raised by MPs and Peers during debates in the House of Commons⁴⁸ and the House of Lords.⁴⁹

The Government has repeatedly stated that any decisions taken on chemicals as an independent UK regime “would be consistent with the fundamental aims and principles of REACH” and would be based on “rigorous assessment of the scientific evidence”.⁵⁰ In response to questions in the House of Lords in March 2020, Defra Minister Lord Goldsmith stated that the Government may consider divergence from EU rules where it is in UK interests but that “does not mean reducing standards”:

We will take decisions based on science and on the best available evidence, including looking at approaches taken by other chemicals regimes right across the world, well beyond the European Union. We will not seek ongoing alignment with the EU regulatory system but we will not diverge simply for the sake of it. There may be good reasons for taking a different approach on a particular substance to reflect UK circumstances, but that does not mean reducing standards or levels of protection. [...]

The core principle is that it will be our choice.⁵¹

Advantages of a separate UK system?

During a February 2020 Westminster Hall debate, Parliamentary Under-Secretary of State for Defra Victoria Prentis stated that a UK REACH

⁴⁵ [US trade deal ‘could flood Britain with toxic cosmetics’](#), Jamie Doward, *The Observer*, 21 March 2020; [Global Justice Now, How a US-UK trade deal threatens our protection from hazardous chemicals](#), Kate Young, 11 November 2019 [accessed 22 April 2020]

⁴⁶ CHEMTrust, [Brexit and Chemical Protections](#), [accessed 26 February 2020]; Greener UK, [Briefing for Commons Second Reading of the Environment Bill \(PDF\)](#), February 2020.

⁴⁷ House of Commons Environmental Audit Committee, [Toxic Chemicals in Everyday Life](#), 2017-19, HC 1805, 16 July 2019, para 26.

⁴⁸ [HC Deb 26 February 2020 c155WH](#) and [HC Deb, 25 February 2019, c89](#).

⁴⁹ [HL Deb 26 March 2019, c1741](#).

⁵⁰ [PO 7151, 4 February 2020](#) [Chemicals: Regulation].

⁵¹ [HL Deb 16 March 2020, c1273 and 1275](#).

regime would give the Government the “freedom to do things differently where we consider that in our best interest”.⁵²

One criticism of REACH is that the process for making regulatory decisions at the EU level is slow.⁵³ There are also concerns about the level compliance in REACH registrations.⁵⁴ One potential advantage of a UK REACH system could be for the UK to improve on the efficiency of the EU system.⁵⁵ In oral questions in March 2020 Lord Goldsmith, Defra Minister, referred to animal testing as one example of where UK could diverge from the EU to improve the UK system:

For example, for many years the UK has been at the forefront in opposing animal tests where alternative approaches can be used—the last-resort principle. We could be more rigorous in applying this principle in the future and there are many other examples where we might want to diverge.⁵⁶

The [Institute of Economic Affairs argued](#) in September 2018 that withdrawing from REACH would provide an opportunity to implement “pro-competitive regulation”.⁵⁷ A European Commission [report](#) from October 2016 considered the impact of REACH on international competitiveness of the EU industry in comparison to regulations in China, Japan, the USA, Canada, and South Korea.⁵⁸ It concluded that “REACH does have a minor negative impact on the competitiveness of the EU industry in relation to their third-country competitors” although extent of this varies between different market situations and countries. In terms of cost to place a new chemical on the market, the EU fell within the middle of the range of countries considered, with costs being higher than in the US but less than compared to Canada, Japan and China.

4.4 Economic impact of Brexit scenarios on the chemicals industry

The terms of any future UK-EU trade agreement will play a crucial role in determining the impact of Brexit on the sectors of the UK economy over the longer term.

At present, there is [no official economic analysis](#) from the Government on the Withdrawal Agreement and its preferred trade relationship with the EU (a free trade agreement similar to the one Canada has with the EU). A Library Insight provides an [overview of the evidence of the](#)

⁵² [HC Deb 26 February 2020](#), c257WH.

⁵³ [Brussels criticised for delays in banning toxic chemicals](#), Matthew Taylor, *The Guardian*, 11 June 2018 [accessed 5 September 2019].

⁵⁴ ECHA Newsletter, [REACH compliance – an Agency priority for 2019](#), 21 February 2020; [Why two thirds of REACH registrations could be breaking the rules](#), Gareth Simkins, *ENDS Report* [subs only], 6 June 2019.

⁵⁵ House of Lords, Select Committee on the European Union, Energy and Environment Sub-Committee, [Oral evidence: The future of REACH regulations post-Brexit](#), 18 July 2018, Q26.

⁵⁶ [HL Deb 16 March 2020](#), c1273.

⁵⁷ Institute of Economic Affairs, [PLAN A+ Creating a prosperous post-Brexit U.K.](#), 24 September 2018.

⁵⁸ European Commission, [Impacts of REACH and corresponding legislation governing the conditions for marketing and use of chemicals in different countries/regions on international competitiveness of EU industry](#), October 2016.

[potential economic impact of the Brexit deal](#) negotiated by Boris Johnson's Government. This was originally written in October 2019 but remains relevant in terms of the possible economic implications on the economy as a whole.

However, Theresa May's Government published an [analysis of the long-term economic impact of Brexit](#) in November 2018. This used economic models to compare how big the economy would be (measured by GDP) in different future UK-EU trading scenarios relative to a 'baseline' scenario of the UK staying in the EU.

This analysis provides estimates of the long-term economic impact of Brexit in terms of changes in economic output (as measured by GVA, Gross Value Added) for the sectors of the economy. The chart on the following page comes from this analysis. It presents estimates depending on the future UK-EU trading scenario. Some of these scenarios have been ruled out by the Government, but the following scenarios are still relevant:⁵⁹

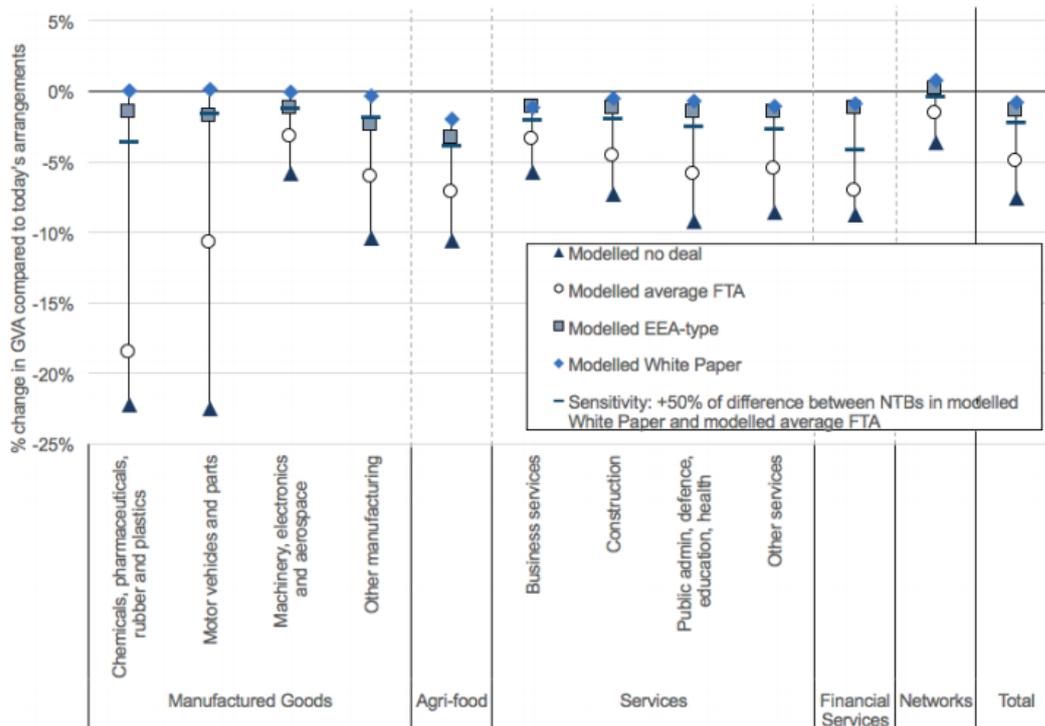
- *Modelled no deal* – in which the UK and the EU trade on World Trade Organisation terms. This scenario is estimated to have an impact on the whole economy in the long run of around -9%. **The impact on the chemicals, pharmaceuticals, rubber and plastics industry is estimated to be roughly -22%.**
- *Modelled average FTA* – a Free Trade Agreement (FTA) between the UK and the EU. In this scenario, impact on the whole economy is estimated to be around -5% in the long run. **The impact on the chemicals, pharmaceuticals, rubber and plastics industry is estimated to be roughly -18%.**
- *Modelled EEA-type agreement* – where the UK is a member of the European Economic Area (EEA) inside the Single Market but not in a customs union with the EU, which is similar to the relationship Norway has with the EU (the Government has rejected this option but it is presented here for context). In this scenario, the impact on the whole economy is estimated to be around -1% in the long term. **The impact on the chemicals, pharmaceuticals, rubber and plastics industry is also estimated to be roughly -1% in the long term.**

Note that these estimates are "trade only impacts", and so do not include other factors such as possible changes to levels of migration.

The following chart illustrates this information. It is from page 59 of the May Government's [EU Exit: Long-term economic analysis](#), published November 2018.

⁵⁹ HM Govt, [EU Exit: Long-term economic analysis](#) (PDF), November 2018, p 59, figure 4.5

Figure 4.5: Summary of trade only impacts on UK sectors, compared to today's arrangements



Central estimates only.¹⁵⁷

This does not include migration or regulatory flexibility effects.

Other sectoral modelling suggests economic output in the agriculture sector could increase in a no deal scenario with EU MFN tariffs, although this is at the expense of consumers who face higher costs (see box on Agri-food additional modelling).

The benefits of new trade deals with countries outside of the EU are captured.

Sectoral GVA excludes tariff revenue.

5. UK REACH: Regulating chemicals in the UK

The Government has been clear that it does not seek to participate in the EU REACH framework. Therefore, subject to any cooperation arrangements agreed, at the end of the transition period the UK will become a third party to REACH. This means:

- A separate UK regime for regulating chemicals must be established (called UK REACH) and
- UK companies' EU-based registrations would become invalid and UK companies must take action to continue to supply to EU markets (see Section 6 below).

5.1 Legislation

At the end of the transition period (formally on 'implementation period completion day') REACH would be retained in domestic legislation as retained direct (principle) EU legislation in accordance with the *EU (Withdrawal) Act 2018 (as amended)*.⁶⁰ This means that the version of REACH that is operative immediately before implementation period completion day would be retained in UK law. This would include the lists of restricted chemicals contained in the REACH Annexes and the substances contained on the ECHA's Candidate List for substances of very high concern.⁶¹

Secondary legislation was passed in March 2019 that would amend the retained EU REACH Regulation in the UK to make it work in a UK-only context: [*The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019*](#) (as amended).⁶² This Statutory Instrument (known as the 'REACH EU Exit SI') would come into force on implementation period completion day (currently 31 December 2020). It was made under section 8 of the *EU (Withdrawal) Act 2018*, which provides the power to correct "deficiencies" in legislation arising from withdrawal from the EU.

Together, the EU REACH Regulation (as retained EU law) as amended by the REACH EU Exit SI will, for the purposes of this paper, be referred to as the "UK REACH regime".

Section 5.2 sets out the key features of the UK REACH regime; commentary is provided in Section 5.3.

⁶⁰ Section 3 of the [*EU \(Withdrawal\) Act 2018*](#) (as amended). For further information see Library briefing on the [Constitutional implications of the Withdrawal Agreement legislation](#) (Section 8), 20 February 2020 and the [Library Briefing on the new EU Withdrawal Agreement Bill](#), 6 January 2020.

⁶¹ The [Candidate List](#) is not contained in the REACH regulation itself but maintained by the ECHA. [*The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019*](#) (SI 2019/758) (as amended), Schedule 1 paragraph 46, inserts a requirement for the HSE to include on its Candidate List all substances included on the ECHA's candidate list immediately before implementation period completion day.

⁶² [*The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019*](#) (SI 2019/758) (as amended).

The Government has since laid two amending instruments to amend the REACH EU Exit SI to correct technical gaps raised by industry:

- [*The REACH etc. \(Amendment etc.\) \(EU Exit\) \(No. 2\) Regulations 2019*](#) (SI 858/2019, made on 11 April 2019) – this fixes a gap that left some firms not covered by the transitional provisions.⁶³
- [*REACH etc. \(Amendment etc.\) \(EU Exit\) \(No. 3\) Regulations 2019*](#) (SI 1144/2019, made on 2 July 2019) – this instrument concerned a gap regarding authorisation applications that are pending a decision by the European Commission.⁶⁴

The Explanatory Memoranda for each SI provide further details.⁶⁵

Environment Bill 2019-20

The [*Environment Bill 2019-20*](#) contains provisions that would give the Secretary of State powers to amend the UK REACH regime by regulations. There are certain listed protected provisions which would not be amendable by regulations, such as Article 1 on the aim and purpose of REACH and Article 5, the “no data no market” principle, amongst others.

The Government states that this power is required to ensure a “smooth transition” to a UK chemicals regime following the UK’s departure from the EU, and to keep the legislation up to date in the future.⁶⁶ However, the provisions have prompted concerns from environment groups and some MPs about the potential for divergence between UK and EU regimes (see Section 4.3 above).⁶⁷ For example, Greener UK called for additional articles to be added to the protected list:

We are concerned about granting the Secretary of State such a sweeping power to amend the main UK REACH text, as this could be used to reduce the level of protection for the public and the environment from hazardous chemicals. [...]

We will be examining the individual REACH articles in depth to establish which ones should be added to the protected list. As a minimum, we believe that Article 33 on information in the supply chain and a right to know for consumers should be added to the protected list.⁶⁸

The Bill is currently in Committee stage in the House of Commons but was adjourned on 19 March due to the impact of Coronavirus.

The [Commons Library analysis of the Environment Bill](#) (March 2020) provides more information and commentary; Section 9 of the paper covers the REACH provisions.

⁶³ For further information, see: [Explanatory Memorandum for SI 858/2019](#), and [DEFRA makes ‘Rolls-Royce’ amendment to UK-REACH](#), *ENDS Report*, Gareth Simkins, 24 June 2019

⁶⁴ For further information, see: [Explanatory Memorandum for SI 1144/2019](#) and [DEFRA makes ‘Rolls-Royce’ amendment to UK-REACH](#), *ENDS Report*, Gareth Simkins, 24 June 2019.

⁶⁵ [Explanatory Memorandum for SI 858/2019](#); and [Explanatory Memorandum for SI 1144/2019](#).

⁶⁶ Defra, [Environment Bill: Policy Statement](#), 30 January 2020, section 7.

⁶⁷ [HC Deb 26 February 2020](#), c150; Greener UK, [Briefing for Commons Second Reading of the Environment Bill \(PDF\)](#), February 2020.

⁶⁸ Greener UK, [Briefing for Commons Second Reading of the Environment Bill \(PDF\)](#), February 2020, page 22.

5.2 UK REACH: key features

The Government states that the UK REACH regulation aims to replicate EU REACH “as closely as possible”. It would create a UK-wide market for chemicals that would apply to all chemicals manufactured in or imported into the UK. It is based on the “no data no market” principle: all substances manufactured or imported into the UK must be registered to be placed on the market.

The Government’s [Explanatory Memorandum](#) provides further detailed information on the REACH EU Exit SI.

HSE as the UK Chemicals Agency

The Health and Safety Executive (HSE) would be established the Chemicals Agency in the UK, taking over the functions of the ECHA with input from the Environment Agency (EA) and devolved environment regulators on environmental matters.

The functions of the European Commission (such as decisions on restrictions and authorisations) would transfer to the Secretary of State.

Devolved Administrations

The UK REACH regime would apply UK-wide.

The Secretary of State would make decisions with the consent of the devolved Administrations in areas of devolved competency (e.g. environmental protection), with the devolved Administrations permitted to take urgent temporary restriction action in some cases, which would then be followed up through a UK-wide procedure.⁶⁹ The Scottish and Welsh Governments were content for devolved matters to go in the UK-wide SI.^{70 71}

As explained in section 3.2 above, under the Protocol on Ireland/Northern Ireland in the Withdrawal Agreement, the EU REACH Regulation would continue to apply in Northern Ireland at the end of the transition period if the UK and EU do not reach a future relationship agreement.

UK chemicals database and IT system

Establishing a UK chemicals regime requires setting up a UK database of registered substances, in effect replicating the ECHA system.

Defra’s internal Digital Data and Technology Services directorate has been developing the UK REACH IT system.⁷² The Government has stated that the UK system will operate “very much like” the ECHA system, with the “same software requirements” and processes.⁷³ The

⁶⁹ [Explanatory Memorandum](#), para 7.9-7.10.

⁷⁰ [Letter](#) from Cabinet Secretary for Environment, Climate Change and Land Reform to the Scottish Parliament Environment, Climate Change & Land Reform Committee, 27 November 2018. Available on the Scottish Parliament webpage: [Statutory Instruments - European Union \(Withdrawal\) Act 2018](#) [accessed 31 January 2019]

⁷¹ Welsh Government, [Written Statement](#), 11 January 2019. Available on Welsh Assembly webpage [WS-30C-076 - The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (“2019 Regulations”) [accessed 31 January 2019].

⁷² [PO243377 15 April 2019](#) [Chemicals: Regulation].

⁷³ [HC Deb 26 February 2020](#).

Government stated in October 2019 that the cost of establishing the UK REACH IT system had been £14.32 million up to that point.⁷⁴

UK REACH registrations

Existing EU REACH registrations and authorisations held by UK companies would be automatically transferred (“grandfathered”) from the EU to UK system without a fee.⁷⁵

UK companies would need to notify and submit registration data to the HSE within a period of transition that would begin after the regime comes into force (Box 2).⁷⁶ The transitional provisions for data submission have been the focus of concern from industry stakeholders (see Section 5.3 below).

Box 2: Transitional provisions for data submission

The legislation establishes a two-stage process for which companies must provide information to the HSE to support “grandfathered” EU registrations:

- Within 120 days, UK companies with EU registrations would have to notify the HSE and provide basic data such as company name, company details, substances registered, quantities produced and evidence of their existing ECHA registration.
- Within two years, companies would need to submit full information to support the registration, such as information and data on the properties of the substance and its safety. The data requirements are the same as for EU REACH.

Companies importing chemicals to the UK from the EEA would have new registration obligations under the UK REACH regime that they did not have under EU REACH. This is because while the UK was in the EEA these companies were moving chemicals within the single market and therefore did not have registration obligations under EU REACH.

A different notification timeframe is therefore provided for companies importing substances from the EEA:

- within 180 days, companies would be required to notify the HSE of the substances they import from the EEA, including basic information about the substance and its safe use;
- within two years, a full information package to support the registration would be required.

Scientific advice and input

The UK REACH regime would place a duty on the HSE to commission external scientific advice when developing its opinions on regulatory measures, except in circumstances where there are “justifiable reasons” not to. The Explanatory Memorandum to the REACH EU Exit SI explains that one justifiable reason may be where the ECHA has already published a robust opinion on a substance.⁷⁷ The HSE is required to consult on and publish a statement on how it will exercise its duty to

⁷⁴ [PQ453, 22 October 2019](#).

⁷⁵ [Explanatory Memorandum](#), Para 13.1.

⁷⁶ The legislation currently reads that the transition periods begin on “exit day” (defined as 31 January 2020). It is expected that data submission dates in the REACH EU Exit SI will be updated in due course to be refer to “IP completion day” rather than “exit day”. See: Burges and Salmon, [The road to UK REACH - what happens next?](#), Simon Tilling, 17 February 2020.

⁷⁷ [Explanatory Memorandum](#), para 7.13.

commission scientific advice within three months (of the regime coming into force).⁷⁸

Appeals against HSE decisions

The UK REACH regime would have a different mechanism for appeals against HSE regulatory decisions compared to the EU regime. Appeals against HSE decisions would be heard by the [First-Tier Tribunal](#) (which already hears appeals against government regulatory bodies on environment enforcement matters, such as appeals against Environment Agency fines). Under the EU REACH regime there is a specific body for hearing appeals against ECHA decisions (called the ECHA Board of Appeals).

An article from law firm Burges and Salmon [summarises the similarities and differences between the two bodies](#). For example, that the First-Tier Tribunal hearings are adversarial in nature whereas the ECHA Board of Appeal takes more the form of an independent review. The article also notes the potential for divergence in decision making between the UK and EU systems if there are two different adjudicating bodies.⁷⁹

5.3 Commentary on the UK REACH regime

Parliamentary debate on the REACH EU Exit SI

The REACH EU Exit SI was subject to the affirmative procedure and approved by the [House of Commons](#) in February 2019,⁸⁰ and the [House of Lords](#) on 26 March 2019.⁸¹ There was strong opposition raised in the debates in both Chambers. In the House of Lords, the following motion of regret was passed which articulated and placed on the record the main concerns (further commentary on each point is provided in the following sections):

At the end insert

“but this House regrets that the draft Regulations fail to fulfil the Prime Minister’s intention to maintain the United Kingdom’s participation in the European Chemicals Agency, which would have avoided

- (1) the duplication of registrations and the consequential increased costs to United Kingdom manufacturers, downstream users and importers,
- (2) the duplication of testing procedures, including animal testing, and
- (3) the pressure on the resources and expertise of the Health and Safety Executive and the environment agencies, which could

⁷⁸ [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019, Schedule 1, Part 10](#). The legislation currently reads that the HSE must publish the statement within 3 months of “exit day” having not yet been amended to take account of the regime coming into force on implementation period completion day.

⁷⁹ Burges Salmon, [UK-REACH and the new appeal system after Brexit](#), 1 April 2019 and [Chemicals regulation: government reveals blueprint for UK REACH](#), 14 January 2019.

⁸⁰ [HC Deb 665, 25 February 2019](#) [Exiting the European Union (Consumer Protection)]

⁸¹ [HL Deb, 796, 26 March 2019](#) [REACH etc. (Amendment etc.) (EU Exit) Regulations 2019]

increase the risks to United Kingdom citizens' health, and to our environment;

and calls on Her Majesty's Government to make continued United Kingdom participation in the European Chemicals Agency and REACH an objective in negotiations with the European Union".⁸²

Data submission deadlines

Industry stakeholders are concerned about the need to submit full registration data to the HSE under the UK REACH regime and the timeframes for doing so. The data sharing arrangements facilitated through REACH (see Box 1) means that companies may not have access to all the scientific data and test results that support their REACH registrations. A survey conducted by the Chemical Business Association in February 2019 found that three-quarters of the 38 companies surveyed (holding 351 registrations) did not own all the data studies for their EU registrations.⁸³

Industry stakeholders argue that getting access to full supporting data necessary to support UK REACH registrations (which has the same data requirements as the EU system) would create significant costs. Potential costs cited include fees for new commercial data sharing agreements, administrative costs and potentially costs for further testing if data cannot be shared. Industry argues these costs would impact the competitiveness of the UK chemicals industry and could result in fewer substances being registered in the UK system while bringing "no commercial or environmental benefit".⁸⁴ In addition, industry argues that the 2-year time period set out in the UK REACH regime to provide data is not feasible in practice if further testing is required.⁸⁵

During a Westminster Hall debate in February 2020, Parliamentary Under-Secretary of State for Defra, Victoria Prentis, explained that full data was required by the HSE to enable it to properly understand the risks of chemicals and operate an effective regulatory regime:

In short, we need it because we will not be able to rely on the fact that the data has already been sent to the ECHA. Registration is how a company shows its understanding of the hazards and risks of a chemical. It does not mean that the ECHA has, in legal terms, approved a chemical or endorsed it as safe. The data is necessary for any regulator, such as the Health and Safety Executive, to operate an effective regulatory regime, to understand the hazards and risks of chemicals, and to ensure their safe use.⁸⁶

⁸² [HL Deb, 796, 26 March 2019](#) c1755.

⁸³ Chemical Business Association, [CBA survey confirms industry's concerns about UK REACH post Brexit](#), 18 February 2019 [accessed 5 September 2019].

⁸⁴ Chemical Industries Association and Cefic, [REACH related issues in the future relationship between the EU-27 and the United Kingdom \(PDF\)](#); 14 February 2020; Ready for Brexit, [interview with Richard Carter, BASF Plc UK and Ireland](#), undated, accessed 19 February 2020; Chemical Industry Association, [A costly challenge for the UK chemical industry under a 'no-deal' Brexit](#), 24 September 2018, accessed 5 November 2018.

⁸⁵ Alliance of Chemical Associations, [Letter to Therese Coffey MP dated 31 October 2018](#) [accessed 5 November 2018].

⁸⁶ [HC Deb 26 February 2020](#) c159WH.

Government has said it would “keep under review” the timeframes for the submission of the full technical information.⁸⁷ The [Delegated Powers Memorandum](#) published by the Government alongside the [Environment Bill 2019–20](#) (see section 5.1 above) indicated that the Government “anticipated” that the data submission deadlines may need to be amended and that the powers contained in the Bill would allow this.⁸⁸

The Government stated in October 2019 that it was working with trade associations to develop data sharing guidance but that ultimately this is a matter for commercial negotiation between industry partners:

The Government is not able to influence the terms under which data currently used for the purposes of EU REACH registrations can be accessed by UK companies in order to support their registrations under UK REACH. Although this is a matter for commercial negotiations, we will continue to work with and encourage industry to facilitate data sharing arrangements.

We are currently working with key trade associations to develop data sharing guidance, which can be targeted directly to the trade associations’ members and networks. Together this guidance will be used by industry to develop future data sharing arrangements.⁸⁹

Concerns about animal testing

One of the key aims of REACH is to minimise animal testing by requiring that animal testing can only be used as a “last resort” (that is, if there is no other way of testing the safety of a substance). Data sharing obligations under REACH (see Box 1) helps ensure that tests on animals are not duplicated.

There have been concerns raised by environmental and animal welfare groups that a separate UK REACH system could result in animal tests being duplicated if UK and EU companies are not able to easily share existing data on test results between the regulatory systems.⁹⁰ Industry stakeholders have also raised this concern.⁹¹

In the Westminster Hall debate in February 2020, Defra Parliamentary Under-Secretary of State Victoria Prentis said that the UK will “continue to be at the forefront of opposing animal tests where alternative approaches can be used”.⁹² During oral questions in the House of Lords, Defra Minister Lord Goldsmith suggested that a “more rigorous approach” to animal welfare could be one area where the UK could improve on the EU system (see Section 4.3 above).⁹³

⁸⁷ [HC Deb 26 February 2020](#).

⁸⁸ [Delegated powers memorandum](#) to the Environment Bill 2019-20 (PDF), 29 January 2020, para 521.

⁸⁹ [PQ7091, 4 November 2019](#) [Chemicals: Registration].

⁹⁰ House of Lords, Select Committee on the European Union, Energy and Environment Sub-Committee, [Brexit: Chemical Regulation](#), 2017-19, HL215, 7 November 2018, para 31 and 35; [HC Deb 26 February 2020](#).

⁹¹ Chemical Industries Association, [Chemical Industry making Brexit work for the UK and the EU](#) press release and [position paper](#) (PDF), 14 February 2020; [UK-EU Negotiations](#) and [joint views on the future relationship](#) (PDF), 25 February 2020.

⁹² [HC Deb 26 February 2020](#), c158WH.

⁹³ [HL Deb 16 March 2020](#), c1273.

Scientific advice and oversight

The Environmental Audit Committee (EAC), House of Lords EU Energy and Environment Sub-Committee along with environmental campaign groups, such as CHEM Trust, have raised concerns that the scientific oversight committees and stakeholder engagement mechanisms that inform decisions under the EU REACH regime (see Section 1.2 above) are not replicated in the UK regime, arguing that this could result in less transparent decision making.⁹⁴ In its July 2019 report on [Toxic Chemicals in Everyday Life](#), EAC recommended that the HSE, in its statement on how it will comply with the duty to commission external scientific advice, should “outline a formal role in the substance evaluation process for the Committee on Toxicity and Hazardous Substances Advisory Committee. It should also establish a forum for engagement with stakeholders.”⁹⁵ In response to the Committee, the Government stated that existing stakeholder mechanisms, such as the UK Chemicals Stakeholder Forum would continue under the new regime.⁹⁶

HSE and Environment Agency resources

There have been concerns raised about whether the HSE and the Environment Agency (EA) would have the financial and staffing resources to manage the additional regulatory responsibilities of the UK REACH regime.⁹⁷ For example in the February 2020 Westminster Hall debate, Shadow International Trade spokesperson Bill Esterson raised the question of the extent to which the HSE would replicate the ECHA’s workload:

Concerns have also been raised about the capacity of the HSE and the legal framework it will follow. It could either repeat the work of ECHA or rely on the work ECHA has carried out. The former would be hugely expensive, time consuming and dependent on a level of scientific expertise that may not be available. The latter could leave it open to challenge on the grounds that it should not be reliant on EU evidence and should have made its own assessment of risk. Either approach is potentially problematic.⁹⁸

In the House of Commons debate on the REACH EU Exit SI in February 2019, Mary Creagh, then Chair of EAC, raised concerns about the HSE’s budget, compared to the ECHA’s:

The working budget for the European Chemicals Agency is €100 million a year, compared to the roughly £2.2 million the HSE currently spends regulating chemicals. Given the recent budget

⁹⁴ CHEM Trust, [CHEM Trust challenges UK Government on Brexit pesticides plans](#), 13 June 2019; House of Lords, Select Committee on the European Union, Energy and Environment Sub-Committee, [Brexit: Chemical Regulation](#), 2017-19, HL215, 7 November 2018, para 37-38; [HC Deb 665, 25 February 2019](#) c89.

⁹⁵ House of Commons Environmental Audit Committee, [Toxic Chemicals in Everyday Life](#), 2017-19, HC 1805, 16 July 2019, para 140.

⁹⁶ [Government Response to the Committee’s Twentieth Report of Session 2017–19](#), HC 160, 19 October 2019, para 132 and 133.

⁹⁷ Burges and Salmon, [The road to UK REACH - what happens next?](#), Simon Tilling, 17 February 2020; [HL Deb 16 March 2020](#), c1310; [HL Deb, 796, 26 March 2019](#) [REACH etc. (Amendment etc.) (EU Exit) Regulations 2019;

⁹⁸ [HC Deb 26 February 2020](#), 151WH.

cuts to the HSE, it is worth noting that it took the EU five years to fully staff the European Chemicals Agency.⁹⁹

In that debate, then Defra Minister Dr Thérèse Coffey stated that it expected the future cost of running UK REACH to be £13 million per year and that the EA would be recruiting an extra 10 staff and the HSE would be taking on 35-40 additional staff. She stated that the HSE would be building on existing expertise and highlighted that the ECHA covers a much larger market (28 Member States).¹⁰⁰ However, as law firm Burges and Salmon point out, the ECHA despite being a large organisation with significant technical expertise “does not do everything itself”, it draws on the resources of the Member States for “complex work” such as substance evaluation.¹⁰¹

5.4 UK Chemicals Strategy

The Government’s [25 Year Environment Plan](#) (11 January 2018) promised a Chemicals Strategy that would set out the Government’s approach as it leaves EU to managing chemicals with potential to cause harm.¹⁰²

The Environmental Audit Committee’s [July 2019 report on Toxic Chemicals in Everyday Life recommended](#) that the Strategy should “lay out a plan for remediation of harmful regulated substances in the environment with binding targets and a ring-fenced budget”. The Committee stated the Strategy should “take full account of the human health impacts of chemical”, highlighting the role that public health bodies should play.¹⁰³

The [Government’s response](#) to the Committee provided the following description of what the Strategy would contain:

15. The Strategy will be a vehicle for exploring 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. It will be developed to ensure a holistic approach to the safe management of chemicals, building on existing government strategies, such as the Resources and Waste and Clean Air Strategies, both of which have been successfully delivered in line with 25YEP commitments.

16. We expect a Chemicals Strategy to play a key part in enabling the transition towards a circular economy approach, building on existing commitments in our Resources and Waste Strategy

[...]

18. The Chemicals Strategy will set out our approach to the safe and sound management of chemicals. It will take account of the Chief Medical Officer’s recommendations to consider the impact of chemicals and chemical mixtures on human health. It will

⁹⁹ [HC Deb 665, 25 February 2019](#) c93.

¹⁰⁰ [HC Deb 665, 25 February 2019](#) c78, 96.

¹⁰¹ Burges and Salmon, [Chemicals regulation: government reveals blueprint for UK REACH](#), 14 January 2020, accessed 21 February 2020.

¹⁰² Defra, [25 Year Environment Plan](#), 11 January 2018.

¹⁰³ House of Commons Environmental Audit Committee, [Toxic Chemicals in Everyday Life](#), 2017-19, HC 1805, 16 July 2019, para 132-133.

incorporate the Government's priorities for our domestic regulation and reflect our future relationship with the EU. We are committed to maintaining the UK's existing high standards in the safe and effective regulation of chemicals after we leave the EU.

19. The Strategy will also address concerns related to endocrine disruptors (EDCs) and the use of potentially toxic substances in furniture and household goods.

In February 2020 the Government stated that it was engaging with a range of stakeholders and that a Call for Evidence would be published in the spring.¹⁰⁴ Parliamentary Under-Secretary of State for Defra Victoria Prentis stated in February 2020 that the Strategy would "aim to drive sustainability, circularity and innovation in the chemicals industry, while protecting human health and the environment from harmful chemical exposure".¹⁰⁵

Specialist Environmental news journal *ENDS Report* reported in April 2020 that Defra's the work on the chemicals strategy had been delayed due to the coronavirus outbreak.¹⁰⁶

¹⁰⁴ [PO13970, 17 February 2020](#).

¹⁰⁵ [HC Deb 26 February 2020](#).

¹⁰⁶ [Coronavirus: DEFRA pauses work on Chemicals Strategy as HSE changes inspection regime](#), Simon Pickstone, *ENDS Report* [subs only], 6 April 2020, accessed 7 April 2020.

6. UK access to EU market

At the end of the transition period, UK companies wishing to export chemicals to the EEA single market would still need to comply with EU REACH (and any other relevant regulations) and, in the absence of a preferential trade agreement, pay a tariff.

Only companies based in the EEA may register directly with the ECHA. This means that after the end of the transition period, UK-companies' EU REACH registrations would become invalid. To preserve EEA market access, UK companies would need to transfer their registrations to an EEA-based entity before the end of the transition period. This may be an affiliate/subsidiary company or an "[only representative](#)" agent (see section 1.3 of this paper).

The ECHA has explained that setting up a company "on paper" is not enough to satisfy REACH registration requirements:

A registrant is responsible for the substances covered by their registrations. This means that the responsible staff and relevant documentation must be present at the address of the registrant – setting up a company on paper only in the EU-27 or EEA is not sufficient.¹⁰⁷

Alternatively, without a valid REACH registration, the obligation for compliance with REACH would fall to the importer of the substance (i.e. UK chemical companies' EEA-based customers).

The European Commission reported that as of mid-August 2019, 52% of UK REACH registrants had transferred their registrations to an EU27 entity.¹⁰⁸ The Chemical Business Association highlighted in April 2018 that a significant number of their member companies were planning to, or had already, created subsidiaries in other EU member states to ensure access to the EU market.¹⁰⁹

The [ECHA's webpage on the UK's Withdrawal from the EU](#) provides advice for UK and EU companies and is updated on a regular basis.

UK Government guidance for industry can be found on gov.uk ([How to comply with REACH chemical regulations](#)) and on the Health and Safety Executive's Brexit webpages ([Regulating chemicals \(REACH\) during the transition period](#)).

¹⁰⁷ ECHA, UK Withdrawal from EU: [UK-based REACH registrant](#) [accessed 22 April 2020]

¹⁰⁸ European Commission, [Finalising preparations for the withdrawal of the United Kingdom from the European Union on 1 November 2019](#) ("6th Brexit Preparedness Communication) 4 September 2019, page 7.

¹⁰⁹ Chemical Business Association (CBA), [Growing Concerns On EU Market Access Post-Brexit](#), 27 April 2018 [accessed 27 July 2019].

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