

ENVIRONMENTAL POLICY FORUM

Brexit and Chemicals Legislation A Briefing Paper

Summary

We are all exposed to hundreds of man-made chemicals in our daily life, coming from everyday products including furniture, packaging and clothes. The aim of chemicals regulation is to establish which of these chemicals are dangerous, and then to put in place measures to ensure that they are used safely, or not used at all. Currently people in the UK are protected from harmful chemicals by the most sophisticated regulation system in the world; the EU's chemical regulation, REACH.

One of the challenges brought about by Brexit is that the UK might leave this system. This is why the option of remaining in REACH if the UK leaves the EU is being advocated by trade unions, civil society groups, environmental organisations¹ and the chemical industry itself². Indeed, a recent survey³ indicated that overall nearly two-thirds of British citizens (62% of Leave voters and 73% of Remain voters) believe that there should be no reduction in regulatory standards that protect people and the environment from potentially harmful chemicals after Brexit.

Trying to re-create a new UK chemical regulation at some point in the future (which, until Friday 2nd March, seemed to be the Government's position^{4,5} and may yet be its fallback) will cost several tens of millions of pounds⁶ and still could well not provide the same level of protection that the UK currently has under REACH. This is because it is extremely unlikely that the UK, as a single country, will be able to replicate REACH's capacity and expertise. Failure to provide protection of the standard of REACH opens up a number of risks to the **economy**, **public health**, the **environment** and **animal welfare**, including the possibility of the UK being open to the use or sale of chemicals considered too dangerous in the EU.

Background – What is REACH?

REACH (**R**egistration, **E**valuation, **A**uthorisation and Restriction of **C**hemicals) is a Regulation of the European Union, adopted in 2007 with a strong influence from the UK. REACH aims to provide a high level of **protection** of human health and the environment from the use of chemicals and to make those who place chemicals on the market (manufacturers and importers) responsible for understanding and managing the **risks** associated with their use. It also seeks to enhance **innovation** in and the **competitiveness** of the EU (and hence the UK's) chemicals industry.

REACH applies to chemicals manufactured in or imported into the EU in quantities of 1 tonne or more per year. Generally, it applies to all individual chemicals on their own,

¹ <http://www.chemtrust.org/brexit-letter/>

² <https://chemicalwatch.com/58480/cia-urges-uk-government-not-to-diverge-from-reach>

³ Poll conducted on behalf of SumOfUs and CHEM Trust by GQR Research, see: <http://www.chemtrust.org/uk-poll/>

⁴ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/environmental-audit-committee/the-governments-environmental-policy/oral/72503.pdf>

⁵ Preparation to spend almost £6m on an IT system for chemicals in the first part of 2018

<https://www.gov.uk/government/publications/eu-exit-preparations-ministerial-direction>

⁶ <https://publications.parliament.uk/pa/cm201617/cmselect/cmenvaud/912/912.pdf>, p.6

in preparations or in articles (products such as furniture, cars, electronics, packaging, etc). Over seventeen thousand chemicals have already been registered, with several tens of thousands more due to be registered in 2018.

REACH requires manufacturers and importers of chemicals to assess their safety and to provide this information to a central body – the European Chemicals Agency (ECHA). Without this data, it is illegal to manufacture or import chemicals covered by REACH. EU regulation also requires the clear labelling of chemicals and the supply of information to users on their safe handling. Some of the data is often obtained through tests using animals. REACH seeks to minimise the use of animal tests by requiring data sharing between registrants and by promoting non-animal test alternatives.

Those chemicals deemed particularly dangerous (“substances of very high concern” or SVHCs) such as cancer-causing chemicals, hormone disruptors or chemicals and what they become that last a long time in the environment and build up in animals or ecosystems are controlled through REACH to reduce the risk they pose to human health and the environment.

The role of REACH in protecting public health and the environment

REACH has become the leading regulatory system in the world, assembling the best database of chemical properties and uses. It has made more actual progress on problematic chemicals than any other regulatory system in the world. For example, following the listing of the chemical bisphenol A (BPA) by the ECHA as an SVHC, the EU is now the first region in the world that has agreed to restrict the use of BPA from 2nd January 2020⁷ in products such as thermal paper till receipts because of scientific evidence that this chemical is “toxic to reproduction”⁸; REACH, therefore, (to continue the example) protects the developing foetus of pregnant shop workers who may have regular contact with till rolls.

REACH has also played a leading role in protecting ecosystems and wildlife from problematic chemicals, for example restricting the presence of hormone-disrupting nonylphenol ethoxylates (NPE), in imported textiles.

If the UK decides to create a new regulation system, it would not have access to safety information about chemicals in the main REACH database. In practice, this means that UK regulators would either have to make decisions on chemical controls with very limited information or require companies to undertake expensive safety testing. The former would be likely to result in a reduction in the protection of human health and the environment in the UK⁹. The latter would result in extra cost and duplication for companies and the tax payer, and hurt the UK's commercial interests.

An example is the specific concern around hydraulic fracturing (commonly known as fracking). This technology is used to release oil or gas resources that are trapped in shale rocks, coal seams and deposits. Many are concerned about the environmental consequences of fracking¹⁰, not least since hormone-disrupting chemicals used in

⁷ <https://echa.europa.eu/documents/10162/370b5de7-9507-f1b4-edc6-80ef2e5cd781>

⁸ <https://echa.europa.eu/chemicals-in-our-life/hot-topics/bisphenol-a>

⁹ If a new registration system was created in the UK, it would not have the same volume of information in it as is in the REACH database. It is important to emphasise that at present much of the information in the REACH databases is actually owned by companies and industry consortia, not by the ECHA.

¹⁰ <http://www.chemtrust.org/wp-content/uploads/chemtrust-fracking-briefing-june2015.pdf>

fracking fluid have a range of toxic properties which could affect employees, including reducing sperm counts and impairing fertility.

Due to the controversy around this technology, ECHA has stipulated that companies selling chemicals for use in fracking will have to specify this in their REACH registration dossier. This has provided more transparency about the chemicals used in fracking. However, this requirement might be put aside if the UK pursues the option of creating a new regulation system once it leaves the EU.

REACH is also linked to other environmental regimes. For example, the presence of REACH-controlled substances in waste materials can cause those to be classified as hazardous waste, which then means they will (rightly) be treated with greater care than they would be otherwise.

The role of REACH in protecting consumers

Nowadays, many consumer items such as clothing, furniture, or office supplies may contain chemicals that can be harmful to health or to the environment. REACH has set up the "consumer's right to know". Consumers now have the legal right to ask their supplier whether the articles they buy contain any chemicals that might have serious effects on health or the environment (i.e. SVHCs) and the supplier has to answer any consumer request on this matter within 45 days¹¹. This provision both helps transparency and encourages manufacturers to consider carefully the chemicals they use in their products.

The role of REACH in minimising animal testing

REACH has pioneered mechanisms to ensure that animal testing is kept to a minimum. Under REACH, registrants can only carry out tests involving the use of animals as a last resort. This means that the chemical companies must use alternatives to animal tests where they are available. Those companies wishing to perform tests must indicate to ECHA the tests they propose, for which they must then obtain approval before carrying them out. According to ECHA analysis of registration dossiers submitted between 2008 and 2016, 89% of registered substances have at least one data endpoint where an alternative was used instead of a study on animals¹².

REACH also requires companies to share data and therefore prevents millions of animals from being killed in duplicative testing. As well as potentially increasing animal testing in the UK, a split from REACH could also increase it in the EU, if EU companies were not able to gain access to test data held by UK companies.

REACH and the economy

The chemical and pharmaceutical industry adds £14 billion of value to the UK economy every year from total annual turnover of over £40 billion. This represents around 10% of the value added by the whole of UK manufacturing. The wider chemical and pharmaceutical sector (manufacturing plus distribution) is the UK's largest exporter of manufactured goods with annual exports of close to £50 billion. 63% of companies in the sector export some or all of what they make, the highest

¹¹ <https://echa.europa.eu/chemicals-in-our-life/how-can-i-use-chemicals-safely/use-your-right-to-ask>

¹² <https://echa.europa.eu/-/alternatives-to-animal-testing-widely-used>

proportion of any goods manufacturing sector in the UK economy. 60% of UK exports go to the EU and 75% of imports and raw materials come from the EU¹³.

REACH also applies to chemicals in “articles”, including consumer products such as TVs, cars and clothes, and industrial goods. Cross-border supply chains for components of finished items are also subject to REACH rules. The annual UK-EU trade in goods is worth almost £600 billion¹⁴.

It seems likely that, if the chemicals regulatory regime in the UK were viewed as less rigorous than REACH, the EU would want to protect its own standards by restricting the entry of chemicals or articles from the UK accordingly. This could put serious strain on the UK economy and manufacturing supply chains and thus eventually on the choices of individual consumers too.

Conclusion

Keeping the people and the environment in the UK protected from harmful chemicals should be a priority for the Government. The best way to do this is for the UK to remain a part of REACH in some form or other. This should be a key element of the discussions on the UK's future relationship with the EU.

Paper prepared by CIWM, the professional body for the resource and waste sector on behalf of the Environmental Policy Forum, a network of UK environmental professional bodies and learned societies promoting environmental sustainability and resilience for the public benefit. The EPF's member bodies have a collective membership of around 70,000 environmental professionals, many of whom are individually chartered in environmental practice, science and engineering disciplines.

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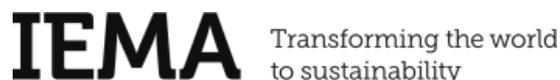
¹³ <https://www.cia.org.uk/news/details/UK-chemical-and-pharmaceutical-industry-stress-the-importance-of-Brexit-but-insist-they-will-show-resilience->

¹⁴ <https://visual.ons.gov.uk/uk-trade-partners>

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Notes:

1. The Environmental Policy Forum (EPF) is a network of UK environmental professional bodies promoting environmental sustainability and resilience for the public benefit. The EPF's member bodies have a collective membership of around 70,000 environmental professionals, many of whom are individually chartered in environmental practice, science and engineering disciplines. www.socenv.org.uk/EPF

2. CIWM (the Chartered Institution of Wastes Management) is the leading professional body for the waste management sector representing around 6,000 individuals in the UK. Established in 1898, CIWM is a non-profit making organisation, dedicated to the promotion of professional competence amongst waste managers. CIWM seeks to raise standards for those working in and with the sector by producing best practice guidance, developing educational and training initiatives, and providing information on key waste-related issues. www.ciwm.co.uk
3. The Chartered Institute of Ecology and Environmental Management (CIEEM) is the leading professional membership body representing and supporting 5,000 ecologists and environmental managers in the UK, Ireland and abroad. Our Vision is of a society which values the natural environment and recognises the contribution of professional ecologists and environmental managers to its conservation. www.cieem.net
4. CIWEM (the Chartered Institution of Water and Environmental Management), is the leading independent Chartered professional body for water and environment professionals, promoting excellence within the sector. www.ciwem.org
5. IEMA is the membership body for more than 14,000 environment and sustainability professionals worldwide. We support individuals and organisations in setting and achieving globally recognised standards for sustainable practice, in turn driving the development and uptake of sustainability skills. We add value for our members by providing the knowledge, connections and recognition necessary to lead change within organisations at all levels. We are independent and international. We apply the combined expertise of our members to provide evidence and influence decision-making, working towards our vision of transforming the world to sustainability. www.iema.net
6. The Institution of Environmental Sciences (IES) is a membership organisation that represents professionals from fields as diverse as air quality, land contamination and education - wherever you find environmental work underpinned by science. A visionary organisation leading debate, dissemination and promotion of environmental science and sustainability, the IES promotes an evidence-based approach to decision and policy making. www.the-ies.org
7. The Institute of Fisheries Management (IFM) is an international organisation of people sharing a common interest in the modern management of recreational and commercial fisheries. www.ifm.org.uk
8. The Landscape Institute (LI) is the chartered body for the landscape profession. It is an educational charity working to promote the art and science of landscape practice. The LI's aim, through the work of its members, is to protect, conserve and enhance the natural and built environment for the public benefit. The Landscape Institute provides a professional home for all landscape practitioners including landscape scientists, landscape planners, landscape architects, landscape managers and urban designers. www.landscapeinstitute.org
9. The Society for the Environment is comprised of 24 Licenced Bodies, with over 500,000 members between them. It received a Royal Charter in 2004, which empowers it to

regulate the Chartered Environmentalist (CEnv) and Registered Environmental Technician (REnvTech) registration in the UK. There are now over 7,000 environmental professionals currently registered who share a common vision of delivering sustainability through environmental professionalism. www.socenv.org.uk

10. With an international membership exceeding 40,000 in around 100 countries, the Institution of Chemical Engineers (IChemE) aims to be the organisation of choice for chemical engineers. It promotes competence and a commitment to best practice, advances the discipline for the benefit of society and supports the professional development of its members. IChemE is a Licenced Body of the Society for the Environment; it is not a member of the EPF, but it is supporting the EPF on this important and relevant issue. www.icheme.org