HOUSE OF LORDS
European Union Committee

House of Lords
London
SW1A 0PW

Tel: 020 7219 4579
Fax: 020 7219 6715
euclords@parliament.uk
www.parliament.uk/lords

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

Dear Thérèse

EU Committee report *Brexit: chemical regulation*

Thank you for your response, dated 31 January, to our earlier correspondence regarding our *Brexit: chemical regulation* report.

We note that since your letter the European Chemicals Agency (ECHA) has announced that it will open a 'Brexit window' from 12-24 March, allowing UK-based companies to transfer their REACH registrations in advance of exit day. This addresses our suggestion that you work with ECHA to enable companies to transfer registrations ahead of exit day despite the UK's status as a Member State, and we welcome it as a positive development that will assist those companies in maintaining their business on the continent.

However, unfortunately your letter once again leaves us with a number of significant concerns. These fall into six areas, as set out below.

1. Communication with industry

You stated that you are informing UK companies of the changes to chemical regulation arising from Brexit through a number of initiatives, including online technical notices and guidance, workshops, webinars and meetings with businesses. However, in recent weeks it has become clear that some companies were not aware of your intention that UK-held REACH registrations would be transferred to the UK system without a fee.[1] It therefore seems that the necessary messages are not reaching all relevant companies, and we encourage you to step up your efforts.

2. Implications for the UK chemical market

We welcome the fact that your decision to allow UK companies to continue to import substances registered by EU-27-led businesses for two years without a UK REACH registration means that UK businesses should not lose immediate access to any chemicals as

[1] https://readyforbrexit.co.uk/basf-flags-concern-over-potential-implications-of-a-separate-uk-reach-after-brexit/

a result of Brexit. However, based on the argument put forward by the Cosmetic, Toiletry and Perfumery Association (CTPA) that some data may need to be re-created because of confidentiality conditions in existing contracts,[2] and given that testing costs can be substantial,[3] we believe you underestimate the costs some companies may face in registering with both the EU and UK REACH systems, and therefore contend that the UK may have access to a smaller range of chemicals after the two-year grace period has expired.

3. HSE resource

In addition, this approach means that in the two years immediately following Brexit the Health and Safety Executive (HSE) will have to process thousands of basic information submissions and full registration applications. This will be an immense task, and particularly challenging given that the HSE's budget was cut by approximately 40% from 2010-2017, and that the HSE has been without a permanent Chief Executive since June 2018. We note that although the Impact Assessment for the UK REACH Statutory Instrument (SI) does not quantify the resources that will be needed,[4] speaking ahead of the House of Commons' vote on the SI, you stated that the HSE "will be taking on an extra 35 to 40 people", and estimated the future running cost of UK REACH to be "about £13 million a year". [5] On what basis did you assess this to be the necessary level of resource?

4. UK chemicals database

In our last letter we asked for "details of the progress made to date in establishing a UK chemicals database", and an assessment of whether the essential functions would be tested and ready for use by 29 March 2019. In response, you stated: "Project targets for this work are regularly reviewed to ensure delivery standards and milestones are met. We also have a contingency plan in place in case it is needed." This fails to clarify both whether the development of the system is on-track and the nature of the contingency plan. Furthermore, we note that during the debate on the UK REACH SI, you stated: "The IT system is still being tested … we will make a call this week on whether the system is ready to go live or whether we will have to do our contingency plan of companies providing that information to us."[6] Will the UK database be ready from 29 March in a 'no deal' scenario? If not, how does the Government intend to receive, process and manage information on chemical registration and safety without a functioning database?

5. Chemical risk assessments

Thank you for noting that the UK REACH SI[7] helps to clarify the means by which independent, expert and transparent chemical risk assessments will take place post-Brexit, and that it requires that "HSE must take relevant scientific knowledge and advice into account and act in a way that ensures a high degree of transparency". We note, however, that Green Alliance have objected to the UK REACH SI on the grounds that it does not establish formal standing committees of experts to inform HSE's work, whereas such

[2] https://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/Session%202017-19/Submission%20from%20the%20Cosmetic.pdf
[3] https://chemicalwatch.com/2803/dr-reach-how-much-to-budget-for-reach-registration-in-2010
[4] http://www.legislation.gov.uk/ukia/2019/36/pdfs/ukia_20190036_en.pdf
[5] Column 78: https://hansard.parliament.uk/commons/2019-02-25/debates/E6756283-60F8-4636-9287-6B8F6DD0C355/ExitingTheEuropeanUnion(ConsumerProtection)
[6] Column 80: https://hansard.parliament.uk/commons/2019-02-25/debates/E6756283-60F8-4636-9287-6B8F6DD0C355/ExitingTheEuropeanUnion(ConsumerProtection)
[7] https://www.legislation.gov.uk/ukdsi/2019/9780111180358/pdfs/ukdsi_9780111180358_en.pdf

committees are part of the EU process.[8] Your response that it is not possible to replicate a multi-Member State committee structure within the UK[9] does not explain why such an approach could not be maintained in an adjusted form. Please address this point.

6. Animal testing

Finally, in your response to our report you stated that Government would encourage HSE to recognise the validity of animal testing already undertaken to "avoid the need for further testing".[10] However, we note that the issue the CTPA raised regarding the potential need to recreate data (as discussed above) undermines this position: the animal testing would have to be repeated if the data acquired from the initial tests cannot be used. We therefore re-state our recommendation that you consider what steps you could take to minimise or eliminate the need for additional animal testing.

Given the urgency of these issues, we look forward to a reply on each of these six issues within 10 working days.

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

[8] https://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/Session%202017-19/Green%20Alliance%20submission.pdf

[9] https://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/Session%202017-19/HoL%20Secondary%20Legislation%20Scrutiny%20Committee%20-%2030%20Jan%20-%202.pdf

[10] https://www.parliament.uk/documents/lords-committees/eu-energy-environment-subcommittee/brexit-chemicals/HOL_EU_EE_Committee_report_Chemicals_Government_response.pdf