UK Trade & Business Commission: consultation on what current and future UK Government trade policy should be in order to benefit the UK economy, businesses and the UK public

Evidence from CHEM Trust

The submission is on behalf of CHEM Trust, a UK registered charity. Our overarching aim is to prevent man-made chemicals from causing long term damage to wildlife and humans, by ensuring that chemicals which cause such harm are substituted with safer alternatives. Further details: https://chemtrust.org/policy.

We are concerned that some trade agreements which include elements of ‘regulatory cooperation’ on chemicals, by which trading partners agree to reduce or eradicate differences in regulation, could limit the room for manoeuvre of the current or any future UK government to align with EU law.

In our view, set out below, the trade policy that would most benefit the UK economy, businesses and the UK public would be for the UK to voluntarily align with EU regulations on chemicals, along the lines of the system in Switzerland. This would ensure high standards for public and workers health and the environment and would reduce the costs and complexity of the UK’s post-Brexit regulation of chemicals on UK chemicals businesses and manufacturing.

Introduction

1. While many industrial chemicals have improved the quality of our lives, many are harmful to people or nature, disrupting sensitive endocrine systems or polluting rivers, seas and wildlife around the world.

2. There have been considerable difficulties establishing a separate, standalone system for regulating hazardous chemicals in the UK post-Brexit since the UK left the EU REACH (Registration, Evaluation, Authorisation and restriction of Chemicals) Regulation. This is managed by the European Chemicals Agency (ECHA) - the world’s most advanced system for regulating hazardous chemicals. REACH enables assessment of the risks posed by different industrial chemicals and the implementation of control measures. It does this by requiring companies to provide sufficient safety data for chemicals they place on the market, so that the regulator can check appropriate risk management measures are in place, and by setting out processes by which the regulator can put in place controls on chemicals that pose risks to human health or the environment.

3. Recent inquiries on regulating after EU exit by both the National Audit Office and Public Accounts Committee concluded that the UK regulator (the Health & Safety Executive, HSE) lacks the capacity needed to carry out its new functions and that future staff cuts could make the current regulatory model unsustainable without major reform.

4. Another key challenge for establishing a system independent from the EU’s for regulating chemicals has been the compilation of chemical safety data on substances already registered in EU REACH, critical for identifying, assessing and controlling harmful chemicals. Deadlines for implementing a new data registration model are in the process of getting pushed back again - to 2026-2030 – but there’s uncertainty about the viability of the new model.

The UK’s regulation of hazardous chemicals post-Brexit

The UK’s post-Brexit system, UK REACH, is failing to properly protect the environment, public and workers health and is threatening the competitiveness of chemicals industry and manufacturing.
5. The lack of capacity in the UK system to match the scale and pace of EU REACH is resulting in the UK considering fewer and weaker protections from harmful chemicals, and at a slower pace. This may be exacerbated by an ideological interest in less or more ‘light touch’ regulation, as well as the UK exercising its new ability to take a different or distinct approach because it can or ‘divergence for the sake of it’.

This is creating a protective gap with the EU that’s set to become very wide over the coming years with the introduction of the EU’s Restrictions Roadmap. Unless measures are taken to bridge this protective gap, it will result in the dumping of products on the UK market that no longer meet higher EU standards and higher levels of chemical pollution in the UK.

- So far, UK REACH has initiated just two restrictions on hazardous substances since the UK exited the EU (none have yet been adopted), compared to 5 that have been adopted in the EU and another 21 that have been initiated. In its second year work programme, the UK regulator de-prioritised controls on 10 hazardous substances targeted by the EU. This includes a restriction on concentration limits for eight polycyclic aromatic hydrocarbons (PAHs) used as infill and in loose form in synthetic football pitches and playgrounds, that are linked to an increased cancer risk. Furthermore, the EU Restrictions Roadmap, which targets groups of widely used chemicals of key concern such as bisphenols and flame retardants, would, if fully implemented, lead to an estimated 5,000 to 7,000 chemicals being banned by 2030.

6. Regulatory divergence imposes costs and complexity on UK businesses of having to comply with two separate sets of standards. According to government estimates, it will cost industry an estimated £2 billion to provide full chemical safety data on substances already registered in the EU. This threatens the competitiveness of the UK chemicals industry, that generates £13bn GVA a year and directly employs 100,000 people - high-skilled jobs, many of which are in the UK’s industrial heartlands, with productivity levels triple that of the rest of the economy.

7. It also harms UK manufacturing, research and product innovation, many of which are SMEs. UK REACH transfers new obligations and costs on manufacturers that become importers with responsibilities for registering chemicals for the first time. This could make it uneconomic to register many smaller volume substances and reduce the number of ingredients that are available to UK manufacturers, encouraging product innovation and manufacturing outside the UK.

8. UK REACH also imposes unnecessary costs on the UK regulator, which must duplicate work already done at EU level evaluating and assessing the risks of harmful chemicals and what regulatory measures may be needed to control them.

Proposal: to voluntarily align with EU chemical safety standards

9. A safer and more sustainable model is needed that will reduce costly bureaucracy for British companies and make UK REACH more efficient and effective, while providing the highest level of protection. The proposed solution would, by default, reflect the UK’s historic role in the creation and subsequent success of the EU’s chemicals database. As EU REACH has access to the full data dossiers for each substance – which are required for properly evaluating risk – our proposal would see the UK take advantage of this database and generally reflect the risk management decisions taken based on it.
Features and benefits of the proposed system

10. This system would default to adopting EU risk management decisions but would have the ability to deviate after a request, subject to demonstrable reasons why the UK context is different. This system for regulating chemicals in Switzerland does not require full registration data for chemicals that are registered in EU REACH but chooses to unilaterally follow EU controls on harmful chemicals as a default, although it retains the ability to deviate. This would provide a pragmatic, sustainable, long-term solution to the considerable problems facing the UK’s system, outlined above.

11. Benefits of the proposed system:
   - Polling has consistently demonstrated, the desire of the public to have the highest standards of public health and environmental protection
   - It will reduce registration and compliance costs on the industry and prevent unnecessary administrative burdens on the diverse small businesses in the chemicals sector, keeping prices low.
   - It will reduce costs on UK manufacturers and exporters and stimulate inward investment and growth by allowing access to more substances for innovative R&D.
   - It will reduce friction costs between UK businesses and our main EU27 trading partners.
   - The UK can focus limited resources in areas where it can make the most impact – for example, on novel substances, which are not also registered in the EU.

Closer partnership with the EU

12. If the UK choses to fully align with EU chemical safety standards this would additionally provide a credible basis on which to seek close cooperation with the European Chemicals Agency. The UK-EU Trade & Cooperation Agreement has an Annex on Chemicals which could provide a basis for developing a much closer partnership with the EU and EU REACH on chemicals in future. There remain strong reasons for the EU to keep the door open to the UK. The Tony Blair Institute argues that the Government should take the ‘unilateral decision to align voluntarily’ with EU product regulations in areas including chemicals and should ‘additionally’ seek to restore cooperation with the European Chemicals Agency, for example through ‘observer status’.

Further information:

In case of any queries about the above, please contact chloe.alexander@chemtrust.org