Dear Michael,

Thank you for your joint letter of 14 January to me, the Secretary of State, Julie James MS and Mairi McAllan MSP, about the UK REACH Candidate List of Substances of Very High Concern (SVHCs). I am replying as the Minister responsible for this policy area.

The formal process for adding substances to the UK REACH Candidate List once nominated has not changed and was carried over from EU REACH. The purpose of the interim approach we published is to provide clarity on the circumstances when we will nominate substances to go through the process of being added to the Candidate List in UK REACH. In contrast, in the EU, each Member State nominates substances for the EU Candidate List based on its own criteria. Therefore, the reasons why some substances have been nominated for the EU Candidate List and not others are not always clear.

We believe that focusing the Candidate List on identifying substances that are genuine candidates for authorisation (the statutory purpose of the list) will more effectively enable substitution away from the most hazardous substances. The regulatory pressure from inclusion on the Candidate List can be diluted if there is little realistic chance of added substances being made subject to authorisation.

We do not believe that our approach will make any practical change to the amount of helpful information available to consumers about the most hazardous substances. The EU Commission’s review of the Article 33 “right to know” provisions (published in October 2020, when Great Britain still participated in EU REACH) concluded that implementation “remains limited”. We will publish the UK REACH review on this subject later this year (in accordance with Article 138(8)).

To develop this approach, Defra convened stakeholder focus groups to seek views from industry and NGOs, including representatives from many of the co-signatory organisations to your letter. Experts from the Health & Safety Executive (HSE) and the Environment Agency (EA) also shared their experiences from EU REACH.

You expressed concerns about the use of Regulatory Management Options Analysis (RMOA) in UK REACH. RMOA is a useful tool for investigating the risks posed by the use of substances and identifying the best approach to protect human health and the environment. Far from creating a bottle neck, the use of RMOA ensures that we are taking the right action in the most efficient way possible.
When substances are on the incorrect regulatory pathway it can lead to unintended consequences, such as regrettable substitution, where a hazardous substance is replaced by a substance with similar hazards; this can then increase the time taken to effectively control the risks. The evidence gathered during the RMOA stage is fed into subsequent activity, enabling follow-up action to proceed faster than if the RMOA had not been performed.

The HSE and the EA use a range of information sources to produce an RMOA. This includes information from scientific journals, from the European Chemicals Agency database, and information industry have provided via the transitional registration requirements for UK REACH. Information submitted via calls for evidence is used to supplement, not replace, other sources of evidence.

Defra and the Welsh and Scottish Governments agreed that the interim principles for addition to the Candidate List will be kept under review as UK REACH policy develops. In reviewing this approach, we will take account of both our experience of operating UK REACH and feedback from stakeholders as it develops. Defra officials meet your organisations regularly and we look forward to further engagement with you on this issue.

We are committed to maintaining an effective regulatory system for the management and control of chemicals, which safeguards human health and the environment and responds to emerging risks. Detailed engagement with NGOs like yours is vital to the success of this goal. Furthermore, we support the vital contribution health and safety representatives and trade unions make to maintaining and improving health and safety in the workplace. As part of its ongoing engagement with trade unions, the HSE will be writing directly to union representatives to ensure they are aware of the opportunity to be Accredited Stakeholder Organisations in UK REACH. Further details are available on the HSE’s website at: https://www.hse.gov.uk/reach/get-involved.htm

Please let me know if I can be of any further assistance with this or any other matters in the future.

Kind regards,

JO CHURCHILL MP

Cc: Julie James MS, Minister for Climate Change in Wales.
     Mairi McAllan MSP, Minister for Environment and Land Reform in Scotland.