

January 2017

## EXECUTIVE SUMMARY

1. EEF welcomes the opportunity to contribute to this important inquiry. UK manufacturers are acutely aware of their environmental, worker and public safety responsibilities and strongly support the continuation of REACH and other EU chemicals legislation following the UK's exit from the European Union (EU).
2. It is important to note that 84 per cent of manufacturers surveyed by EEF in 2016 export directly or indirectly to the EU and beyond<sup>1</sup>, EEF members want to achieve as much tariff-free and red-tape free access to the market as we can following our departure from the EU. The change in our access 'rights' – whatever they may become - as a non-EU member will require a period of implementation and adjustment.
3. The REACH Regulation is widely regarded as an example of policy symbiosis - as both the UK and EU have profited from the collaboration and partnership. As such, despite the complexity of REACH approximately 85 per cent of members' want to see it remain – with the overall motivation for this being to help ensure uninterrupted access to the single market.
4. UK manufacturers exporting products into the EU will need to be REACH compliant. Therefore, it makes sense for REACH, at least in the short term, to be continued under UK law post-Brexit. Moreover, UK manufacturing companies - a sizable proportion of them SMEs - have already taken significant steps to comply with REACH in terms of financial investment. These same companies will continue to need access to business-critical chemicals following the final 2018 REACH registration process and beyond.
5. EEF understands that REACH is not without its flaws and that there is significant scope for change. Through the UK's departure from the EU there is a fresh opportunity for the UK to review some elements, particularly around the authorisation process, that may benefit UK manufacturing.
6. Any adaptations to REACH should be carefully considered to prevent gold plating; and creating two parallel sets of chemicals legislation to comply with, which would increase administration and costs for UK companies compared to their EU competitors, should be avoided. There are also concerns about the resource at Government level to administer and oversee the implementation of such a potentially burdensome new regulatory framework.

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<sup>1</sup> <https://www.eef.org.uk/resources-and-knowledge/research-and-intelligence/industry-reports/britain-and-the-eu-manufacturing-an-orderly-exit>

7. Whilst REACH is the most widely-recognised EU chemical regulations, EEF also questions what the impact of Brexit may be for other EU-led chemical regulations, such as the Classification, Labelling and Packing (CLP) regime; and also the Biocidal Product Regulation (replacing the Biocides Directive).

## TRANSPOSITION

8. The sheer complexity of REACH means that it is likely that the 'Great Repeal Bill' will not in one step be able to transpose REACH into UK law and this is significant in terms of the ability to shape its effect on the UK.

9. Areas that require significant attention include: status of Only Representatives (ORs) in the UK; the status of authorisations to use Substances of Very High Concern (SVHC); the status of registration dossiers which UK companies have financially supported; the process for authorisation and restrictions; and the degree to which the UK aligns with updates to the Candidate List.

10. Important distinctions from a manufacturing perspective are those between products and processes. UK chemical firms will still need their chemicals to be registered if they are to export their products to the EU, irrespective of any domestic legislation in place post-Brexit. As such, UK manufacturers as downstream users will still have to comply with the regulations on chemicals in their products. For the process-side of REACH, there could be scope to adopt a more tailored approach.

11. For example in terms of authorisation, it is possible to envisage a scenario where UK workers and the UK environment attain the same level of environment protection as our EU counterparts, but the route to achieving is not necessarily required to be the same.

12. We want to achieve as much tariff-free and red-tape free access to the single market following departure from the EU. This is entirely dependent on the outcome of the exit negotiations and the nature of the agreements that are reached over trade, all of which remain unknown and uncertain. EEF agrees with the intentions of REACH, and the positive impacts these have had on worker and public safety alongside allaying environmental concerns. It is also important to note that the UK will be required to comply with REACH in order to export into the EU, at least in some capacity, regardless of the outcome of the exit negotiations. There may be room for manoeuvre on some of the more burdensome and complex aspects in terms of implementation and delivery.

13. With regard to the Devolved Administrations, EEF is concerned about the implications of policy divergence in chemical management policies in each of the Devolved Administrations. EEF wants to see a harmonised approach to chemical regulation across the UK to prevent competitive distortion.

## ADMINISTRATIVE, POLICY AND REGULATORY IMPLICATIONS

14. The way the UK has to date contributed to the formation and functioning REACH is widely considered to be a

benefit in terms of input and delivery. There is concern that any transfer of the administrative and enforcement responsibilities that are currently held by the European Chemicals Agency (ECHA) to UK competence must be sufficiently resourced to be effective.

15. It is likely the development of any new UK chemicals agency, or expansion of the Competent Authority would require considerable additional resource to develop an alternative framework, requiring significant expertise, and is likely to be less cost-effective than the current arrangement with ECHA.

16. Robust scientific management must be central to chemicals regulation, to ensure the adequate scrutiny of the toxicological and environmental impacts leads to the evidence-based and appropriate controls being placed on chemicals. If such a regulatory body were not adequately resourced and funded, the implications could lead to a lack of standardisation and inferior worker, public and environment protection. Not only would this have consequences at a national level, there is a risk of sub-standard products entering the UK market.

17. Ideally, the UK would negotiate a continued relationship with ECHA. The UK would continue its relationship with the European Competent Authority, and facilitate data sharing – a valuable component of REACH. EEF would also like to see the UK Government continue to have role in influencing scientific policy and substance scrutiny.

## **FUTURE OF THE CHEMICAL INDUSTRY**

18. EEF does not wish to see the UK adopt a drastically alternative approach to chemicals legislation in the short-term and would like UK legislation to optimally implement REACH. Furthermore, in order to minimise the barriers to trade one we have exited the EU, it would be helpful to maintain alignment with the list of chemicals that companies have to report and respond to.

19. In the medium to long term, however, and only after comprehensive consultation with industry, EEF recognises there is opportunity for regulatory change. For example, there has been some criticism of the hazard-based approach that REACH has historically adopted; and that in the future the UK could progress towards a more targeted risk-based approach. Furthermore, an ability to implement changes to the complex and cumbersome authorisation process would be welcome; alongside the adoption of Occupational Exposure Limits (OELs) to ensure the safe use of substances at the same time minimising barriers to trading with the EU.

## **CONCLUDING REMARKS**

20. Developing and implementing an entirely new framework to regulate chemicals is not what the UK manufacturing sector wants or needs. The process would be intensely time-consuming and resource-intensive to implement;

## Make UK's response to the EAC inquiry on "The Future of the Chemicals Regulation after the EU Referendum"



expensive to develop; could create barriers to trade; and is unlikely to offer the same levels of environment and public protection.

21. Furthermore, any potential cost-savings of moving away from REACH, are likely to be irrelevant as a large percentage of the cost of REACH is incurred during registration – the bulk of which has already occurred in order to meet previous deadlines in addition to the upcoming 2018 deadline. Any UK version of REACH and the appropriate regulatory body is highly unlikely to be in place before then.

22. UK manufacturers recognise the opportunities of exploring options for amending some of the more process-based elements of REACH. However, a scenario whereby this process is rushed; carried out without consultation with industry; and without knowledge of the UK's full position in terms of its EU counterparts and any negotiation deal should be avoided.

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