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European Chemical Industry views on the future-relationship negotiations between the EU and the UK

Following the UK's departure from the European Union on 31st January 2020, both sides are now engaged in the future-relationship negotiations during the transition period. A priority in these negotiations is the conclusion of a trade agreement that will be the core of the future economic relationship.

In 2018 bilateral EU27 – UK chemicals trade amounted to about €46 billion. With the UK chemical industry representing 6% of total EU28 sales and UK exports to the EU27 representing about 60% of UK sales in 2018, both sides are important markets to each other with highly integrated supply chains in the chemical sector and downstream.

While noting the challenges ahead, including the timing of the negotiations, this agreement should secure, at the minimum, frictionless trade in chemicals and a high degree of regulatory alignment between the UK and the EU-27.

Cefic and CIA consider the following key issues should be addressed during the negotiations:

- **Tariffs and Rules of Origin**

- Chemicals are traded via complex value chains and may cross the EU-27 and UK borders several times, either in the form of final chemical products or integrated in (intermediate) products made with chemicals (e.g. car parts). The imposition of tariffs would quickly translate into additional exponential costs for the chemical industry.
- Free flow of chemicals, tariff free and quota free, should be retained for all bilateral chemical trade.
- The future trade agreement should include the prohibition of export tariffs/taxes and provide for elimination of trade distorting subsidies.
- Rules of origin (RoO) for chemical products should be as flexible and simple as possible, along the lines of the RoO in the trade agreement with Japan and Mercosur - see attached.
- Origin verification procedures should be conducted by the customs authorities of the exporting Party. In order to protect confidential business information, exporters should not be obliged to submit any confidential business information neither to the importer nor to the authorities of the importing Party. Likewise, the presence of a representative of the importing Party as an observer during the verification process should be avoided.

Please see this document for more information - [Rules of Origin for Chemical Chapters 28 to 40 in context of the EU-UK negotiations.](#)

- **Regulatory Consistency on chemicals legislation (REACH)**

We urge for an approach that minimizes disruption to business and keeps costs, bureaucracy, technical barriers to trade and animal welfare concerns to a minimum whilst maintaining high levels of protection in the following way:

For more information please also see our position paper [REACH related issues in the future relationship between the EU-27 and the United Kingdom](#).

Agreement on data and information sharing for chemicals under existing EU regulation

Negotiating a partnership that is significantly closer than that one envisaged by existing regulatory cooperation agreements between ECHA and some non-EU countries is of vital importance. Existing cooperation agreements between ECHA and non-EU countries generally entail sharing best practice, exchanging views in experiences in implementing their respective regulations and scientific knowledge in relation to risk assessment of chemicals. The agreements between ECHA, Australia and Canada relate to the use of data for the purposes of classification and labelling (under GHS) or in connection with the relevant local notification schemes where the chemical itself is listed, but – unlike REACH – there is no nominative listing (company by company). Usually for a substance that is inventory listed, there is no need to register, and hence no need to generate or obtain additional data. Signing an agreement similar to those ECHA currently has with Australia and Canada would not overcome issues companies will face in duplicating registration requirements as well as the need for data and intellectual property rights under both UK and EU REACH.

In terms of existing provisions under EU law, Article 120 of REACH foresees the potential scenario of an agreement on sharing information held by the Agency with non-EU authorities, providing its purpose is cooperation on the implementation or management of legislation concerning chemicals and the third party protects the confidential information as mutually agreed.

Also, Article 24 of REACH foresees a mechanism to acknowledge existing notifications under Directive 67/548 (“Dangerous Substance Directive”) and allows to accept them in place of registrations. Translating this mechanism to the situation under BREXIT would imply that current REACH registration would be acknowledged as being valid under UK REACH as well. Where necessary, designated ORs could notify UK competent authorities about the existence of REACH registration numbers ensuring that confidential business information in the value chain are not disclosed downstream in the value chain. This mechanism may require that ECHA verifies the information provided by the notifier.

As the intention of the UK government is to require individual registrations for substances and to continue to monitor and evaluate chemicals in the UK, we believe these options should be explored during the negotiations as basis for future cooperation on chemicals management across Europe and in order to leverage available data for the purpose of chemicals management to the extent possible.

Cooperation agreement

As a minimum, cooperation between the UK and EU should be based on the following areas:

- A work programme enabling sharing results of chemical assessments between the UK authority and ECHA with the aim to share knowledge on hazards and risk assessment of chemicals.

- Joint collaboration between the UK and the EU under the REACH evaluation process avoiding two parallel separate reviews of the same chemicals, limiting further animal studies and providing a consistent basis for decision making on chemicals.
- Establishing the disclosure of data between the relevant competent authorities in the UK and EU27 including confidential business information according to REACH Article 120 in order to assess chemicals from a comparable and consistent dataset.
- Regular meetings and exchange of information in the context of future technical and scientific cooperation.
- Information exchange on matters of common interest such as emerging risks from chemicals.
- Sharing operations or implementation experiences to strengthen enforcement and regulator capacity.
- Agreement on mutual acceptance of study-data generated based on well accepted guidelines and standards like GLP.

Whatever shape the future relationship may eventually take, first and foremost we are urging negotiators to ensure that the chemicals regulatory systems of the EU-27 and the UK remain highly aligned and going beyond existing cooperation agreements between ECHA and some non-EU countries. In our view, this will not only allow for continuity and consistency for companies and regulatory bodies operating on both sides of the Channel, but also ensure a framework for the continued development and implementation of high health, safety and environmental standards in a level playing field. To avoid the risks Brexit imposes, we urge the UK to remain part of ECHA - See attached for further details.

- **Other chemicals management issues**

Besides REACH legislation, other chemicals management issues could arise in the future relationship (e.g. Prior Informed Consent Regulation concerning the export and import of hazardous chemicals, Biocidal Products Regulation, waste regulation and the dual-use goods and drug precursors legislation).

- As legislation is developed, it would be desirable that both sides establish a close cooperation and dialogue in order to get alignment.

- **Harmonization of customs procedures**

As the UK will step out of the Single Market, customs procedures will be different. Also, VAT and Excise formalities, as well as simplifications (deferrals, etc.) will cease bringing a level of increased complexity for internationally operating companies in the EU27 and the UK.

- Both sides should work towards customs procedures that are as much harmonized as possible.

- **Free movement of qualified personnel**

Within the complex supply chains of the chemical industry there are many different specialisms, and it is not possible to develop talent for all of them in one country. It is then typical to find highly skilled people of many nationalities working in chemical plants in the UK, EU27 or across the globe.

- The continued free movement of skilled labour between the EU27 and the UK is a high priority for the chemical industry given skill shortages.