

Mr Michel Barnier
Head of the Task Force for Relations
with the United Kingdom
European Commission

Mr David Frost
Chief Negotiator
Task Force Europe

7 May 2020

Dear Mr Barnier,

Dear Mr Frost,

We are writing to you regarding the issue of regulatory cooperation on chemicals in the negotiations regarding the envisaged trade agreement between the EU-27 and the United Kingdom.

With bilateral chemicals trade amounting to about € 44 billion, the UK chemical industry representing more than 7% of total EU-28 sales and EU chemical industry 52.5% of UK sales, both sides are important markets to each other with highly integrated supply chains in the chemical sector. Thus, the preferred option of the European chemical industry is a strong future partnership comprising a deep and comprehensive free trade agreement.

One of the key issues for our industry is regulatory cooperation. The chemical industry seeks an agreement that recognises the economic and environmental logic of remaining closely connected with regard to the REACH regulation, addressing the safety of chemicals and their placement on the market. The UK and EU's negotiating approaches indicate that the two parties intend to form separate legal orders. The EU mandate suggests for a framework for voluntary regulatory cooperation in areas of Union interest, including exchange of information and sharing of best practice. Similarly, the UK mandate more specifically calls for cooperation on chemicals to be included in an annex to the future free trade agreement. To ensure high levels of protection for the environment, human and animal health and to support UK and EU businesses to meet the separate regulatory requirements of the two markets, the UK proposes to agree on data and information sharing mechanisms, in line with the relevant provisions set out in UK and EU regulation and existing third-country mechanisms. In addition, a commitment to develop a memorandum of understanding to enhance cooperation further, similar to those that the European Chemicals Agency has agreed with Australia and Canada, is suggested.

Withdrawal of the UK from the EU-REACH system risks triggering substantial disruption on chemicals flowing both ways adding costs, complexity and burden for business on both sides (e.g. re-registration/re-authorisation of substances with its associated costs and extensive timelines). In case of two separate legislative systems, EU27/EEA sales to the UK will have to comply with UK REACH registration requirements under almost identical conditions as those under EU-REACH and within extremely tight and challenging timescales (2 years).

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.

Whatever shape the future relationship may eventually take, first and foremost we are urging negotiators to ensure that the regulatory systems of the EU-27 and the UK remain highly aligned and go 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.

Our associations are about to finalise a concrete proposal how this could be achieved that we will share with you in the coming weeks.

We would appreciate a meeting with you to discuss this proposal and other chemical industry priorities in the negotiations.

Yours sincerely,



Marco Mensink
Director General
Cefic



Steve Elliott
Chief Executive
CIA

Copy: Sabine Weyand - DG Trade
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