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VERSION 1 –
SUBJECT TO
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OUTCOME

Chemical industry preparing for 2021

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In this publication we set out the key issues affecting UK chemical businesses in moving to a new trading relationship with the European Union (EU) from 1 January 2021. In particular, in advance of the final negotiated outcome, we address a number of key policy areas – trade, energy & climate change, environment, chemicals management, health & safety and employment – and highlight current arrangements, anticipated changes under a WTO outcome and, in some areas, what we should expect if we secure a Free Trade Agreement.

On 23 June 2016 the country voted to leave the European Union. Whilst respecting the result of the referendum, UK chemical businesses shared with CIA their priorities for any future trading relationship between the UK and the EU. Those businesses explained that with 60% of UK chemical exports going to the EU and the UK sourcing 75% of raw materials from the EU, maintaining a close relationship was crucial. Our sector needed tariff free trade, minimal border delays, regulatory consistency and continued access to skilled people. Members of the Chemical Industries Association (CIA) have examined the issue of Brexit and our relations with the European Union in great detail. It remains the view of the Association that a deal with the EU is in the best interests of the sector, our suppliers and our customers. However, the ongoing uncertainty is causing increasing concern.

The depth and breadth of engagement across Government over the past four years has resulted in the chemical industry being much better understood and appreciated by policymakers. That engagement has placed us in a strong position as negotiations continue, recognising that departing without a deal will not end the Brexit process, but will move us on to a future phase of negotiations as the UK and EU continue to discuss the basis of a future bilateral relationship.

It is sensible for companies to implement contingency plans allowing them to operate as smoothly as possible after UK exit. Whilst delays at the border might be beyond your direct control, ensuring that your customers and partners are registered for import/export, that you have completed the necessary export documentation and that your substances are registered both in the UK and in the EU are all within your control. This publication, supported by the Department for Business, Energy and Industrial Strategy's Readiness Fund, explores what you should now be doing to ensure any disruption from 1 January is minimised as much as possible.

TRADE

	Current arrangements	No deal	With an EU FTA Deal
Tariffs – Export and Import	No tariffs on trade within the Single Market.	<p>Revert to WTO (MFN – Most Favoured Nation) terms for exports to EU27. Tariffs average about 4.7% for chemical exports. All exports would pay the EU's Common External Tariff. Tariff is payable by the importing party.</p> <p>The UK has introduced the UK Global Tariff payable on all imports from 1 January 2021. Some tariffs have been removed and others reduced. Please utilise the look-up tool (see p.5) to check what tariff is payable on imported goods. Note. The tariff currently paid on imports from third countries will also change to that of the UK Global Tariff.</p>	If the EU agreement covers 100% of manufactured goods, then 0% tariff will be payable on goods and raw materials from the EU27.
Trade – Customs with EU	No customs requirements on trade between the UK and the EU27.	<p>Customs declaration and compliance costs will apply.</p> <p>Companies should register as an Economic Operator Registration and Identification (EORI). The process can take three days.</p>	<p>Customs declaration and compliance costs will apply.</p> <p>Companies should register as an Economic Operator Registration and Identification (EORI). The process can take three days.</p>
Rules of Origin (RoO)	Cumulative RoO apply.	The UK is an independent trading nation. EU content in a UK product and UK content in an EU product would not qualify toward local content thresholds to qualify for reduced (preferential) tariffs with Free Trade partner countries.	RoO definitions are the subject of ongoing negotiations with the EU. The UK is pursuing 'diagonal cumulation' which would continue to count EU content as UK content. What definition is agreed will impact on future FTA negotiations.
Do FTA signatories gain access to the markets of other countries that have signed FTAs with the EU?	No. Using the CETA (Canada) Agreement as an example. Having an agreement with Canada does not give the EU28 access to the Mexico markets through the USMCA arrangements.	No change.	No. The UK will have a sovereign trade policy from 1 January 2021 and will negotiate bilateral deals. Priorities are the US, Australia and New Zealand.
Continuity of existing EU Free Trade Agreements	The UK has access to the 40+ Trade agreements that the EU has negotiated with trading blocs (multilateral) and bilaterally with other nations.	Some progress in rolling over EU FTAs. Agreements struck with Switzerland, South Korea and Japan and trade with Canada likely to continue under a similar arrangement to EU deal. Mexico FTA unlikely to be agreed by Jan 2021 so tariffs payable on imports.	At the end of the transition period UK companies will no longer have access to EU FTA markets and will need to agree bilateral deals to continue to benefit from preferential tariff rates.
Trade Remedies	EU Commission applies protective measures against dumping and unfair trade practices such as subsidies.	The UK has established the framework of the UK Trade Remedies Authority, which would become operational the day after the UK leaves the implementation period.	The UK has established the framework of the UK Trade Remedies Authority, which would become operational the day after the UK leaves the implementation period.

Key changes under a no-deal (WTO) outcome

If the UK leaves the EU with no deal, **tariffs will be payable on all exports to the EU27**. For chemicals, the rates vary between 0% and 6.5%, and average more than 4%. Imports would pay the UK Global Tariff. Links to checking what tariff you will pay into the EU and on raw materials into the UK are below.

Companies will be required to provide export/import documentation on all UK exports to the EU27. Customs declarations will be required every time goods cross the UK/EU border, similar to the current requirement for trade with non-EU countries. All UK exporters will have to register for an EORI number in order to trade with the EU. **This will be required even if the UK agrees an FTA deal with the EU.**

Rules of Origin will have an impact on tariffs. Products containing raw materials made in other EU Member States, or EU-made products using UK-made inputs, may be affected. Companies will need to check in each instance. Japan, in the recently signed UK/Japan FTA, has agreed that EU content will continue to count as UK content securing tariff free access to the Japanese market. This might not always be the case in future FTAs that the UK negotiates.

UK companies would no longer be able to take advantage of preferred tariffs, whether reduced or zero tariffs, when exporting to countries where the existing EU negotiated FTA had not been rolled over into a bilateral agreement. Mexico remain in negotiations with the UK in advance of any agreement being finalised.

Trade Policy becomes a sovereign issue at the end of the transition period. The UK will negotiate its own bilateral FTAs. It will also have to ensure all its trading partners operate under WTO conditions of fairness. If a company learns of unfair trading practises, they would need to raise a complaint with the new UK Trade Remedies Authority (TRA).

The UK Government states that the TRA will be nimble and decisive in defending UK interests, rather than having to consider the wider impact on 27 EU member states. It is likely that, at some point, the UK will challenge EU suppliers with a threat of dumping duties, and vice versa. CIA has been engaged with the process throughout and will continue to advise in the interest of our sector.

Trade with Northern Ireland: Changes for goods moving from Great Britain to Northern Ireland will be kept to a minimum – A Trader Support Service has been introduced. If you are moving goods from GB to or through NI, you can sign up now at <https://www.gov.uk/guidance/trader-support-service>. In summary, the UK Government has made it clear that no export or exit declarations for goods leaving Great Britain for Northern Ireland will be required; processes will be fully digital; no tariffs will be payable on all internal UK trade.

Staged import controls: the UK Government has introduced a range of easements to facilitate trade in the 6 months from 1 January. These easements are temporary and companies must maintain records of tariff and VAT liability for the period from 1 January. However, it is also worth noting that the EU has not reciprocated the easements outlining that they are ready for the new procedures.

From January 2021: Traders importing standard goods, covering everything from clothes to electronics, will need to prepare for basic customs requirements, such as keeping sufficient records of imported goods. Traders will also need to consider how they account for and pay VAT on imported goods. Traders will then have up to six months to complete customs declarations. While tariffs will be payable where due on relevant goods, payments can be deferred until the customs declaration has been made. UK Safety and Security declarations will not be required on imports for the first six months.

Standard customs declarations will be needed from 1 January 2021 for controlled goods and excise goods, including drug precursor chemicals, ammonium nitrate fertiliser, fuels (including alcohols and biodiesel etc.) and ozone depleting substances. Full declarations will also be required for all goods subject to trade remedies, safeguards and sanctions.

Also remember that goods not from the EU (e.g. trans-shipped) or entering a special procedure in the UK (like Inward Processing) will require full declarations.

Regardless of whether people can make use of this short-term measure, any of them can apply to make simplified import declarations from 1 January and into the future at <https://www.gov.uk/guidance/using-simplified-declarations-for-imports>.

Export declarations and UK exit Safety and Security declarations will be required for all goods. Traders importing and exporting goods using the Common Transit Convention will need to follow all of the transit procedures – these will not be introduced in stages. The goods vehicle movement service (GVMS) will be introduced from January for Transit movements only.

From July 2021: Traders moving any goods will have to make full customs declarations at the point of importation and pay relevant tariffs. Full Safety and Security declarations will be required.

Import VAT: VAT will be levied on imports of goods from the EU, following the same rates and structures as applied to Rest of the World (RoW) imports. VAT registered importers will be able to use postponed VAT accounting. They will not be compelled to do so unless they import non-controlled goods and either delay their supplementary customs declarations or use the Simplified Customs Declarations process and make an Entry in Declarants Records. Non-VAT registered importers have the same options available to report and pay import VAT as they do for customs duties, i.e. they can apply to use a Duty Deferment Account to defer duties and import VAT.

Export process: UK-based businesses sending goods from the UK will have to complete a UK customs export declaration after the end of the transition period. Most RoW declarations are currently submitted by an intermediary, such as a customs agent. Alternatively, exporters can submit declarations through the National Export System (NES) or by using commercial software.

The simplest introductory guide to UK exporting from 1 January 2021 is at <https://www.gov.uk/prepare-to-export-from-great-britain-from-january-2021>. Your EU-based customer will face new administration requirements from the end of the transition period, with or without a deal. Please share with EU customers the linked note advising on what to do now to avoid hold-ups. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/927992/7392_Get_Ready_UKG_EU_Trader_Leaflet_KJ_access3_A5.pdf guide.

The importing requirements are consistent across the EU27 but do check on any specific requirements for an individual

member state on the UK Government website. <https://www.gov.uk/government/collections/exporting-after-eu-exit-country-by-country>.

Helpful additional information on EU import procedures can be accessed directly from the EU. The starting point would be at <https://trade.ec.europa.eu/tradehelp/eu-import-procedures>; and on VAT at <https://>

ec.europa.eu/info/sites/info/files/brexit_files/info_site/vat-goods_en_0.pdf.

The refund process differs across member states – use this page as a starting point https://ec.europa.eu/taxation_customs/business/vat/eu-vat-rules-topic/vat-refunds_en).

Reminder: GOV.UK has a new tool which can be used to look up tariff rates and other import requirements, including documentation, in export markets (*this is a UK-specific replacement for the EU's Market Access Database*) https://www.check-duties-customs-exporting-goods.service.gov.uk/selectdest?_ga=2.74757393.2098389943.1594626790-1650061039.1577462002.

Key questions to consider for contingency planning

Do your contracts make it clear who will be liable to pay any new tariff charges that may become due? Your customers in the EU will have to pay any import tariff when your goods first arrive in the EU. Have you agreed how additional costs might be absorbed, or whether suppliers have inserted a break clause into any contract?

Who is responsible for ensuring your exports are shipped with the necessary paperwork? Is the documentation for shipments to the rest of the world prepared by a freight forwarder or another third party, or is it handled in-house? Can your team cope with the additional workload for imports/exports to the EU27? Remember that they will be asked for advice on change

control, delivery commitments, changes to the law, pricing commitments and, potentially, even force majeure options.

Are potential delays to your exports predictable and thus can impact be mitigated? What additional costs are likely to be incurred for items such as warehousing and stockpiling, cash-flow pressures, insurance or late arrival? Have you considered whether seeking Authorised Economic Operator (AEO) status might be advantageous?

How might the threat of dumping duties from the EU impact your business and supply chains? Since 1973, the EU has led

the protection of EU industry against unfair trading practices, such as the illegal dumping of products at prices below production cost, or through artificial subsidies on raw materials or energy costs. From 1 January 2021 the Trade Remedies Authority (UK) will have been established to service this support.

Please consult the **Border Operating Model (BOM)** for a detailed guide to how the UK's border with the European Union will operate after the transition period at <https://www.gov.uk/government/publications/the-border-operating-model>.

Simpler guides to key changes and actions

Step-by-step guide for exports

<https://www.gov.uk/prepare-to-export-from-great-britain-from-january-2021>

Step-by-step guide for imports

<https://www.gov.uk/prepare-to-import-to-great-britain-from-january-2021>

HMRC videos and webinars (more to be uploaded soon)

<https://www.gov.uk/guidance/help-and-support-if-your-business-trades-with-the-eu>

Additional useful links

<https://www.gov.uk/check-tariffs-1-january-2021> – this is where traders can go to check the **tariff rates** the UK will apply to all imports from 1 January from markets that we do not have preferential trading arrangements with. The UK intends to conclude a Free Trade Agreement with the EU and all other 'continuity' FTA partners, alongside new potential partners such as the USA.

Ahead of 1 January, the easiest way for a UK exporter to quickly check what EU import tariffs would be charged if we do not sign an FTA would be to use the UK's own tariff and commodity code look-up tool, as the UK is currently applying the EU's Common External Tariff rates to trade from the rest of the world (the trader would need to look at the MFN rates) <https://www.gov.uk/trade-tariff>.

This technique will of course only work until 1 January, after which exporters are recommended to use the UK's 'Check how to export goods' tool, which will also show documentary requirements for customs, information on taxes and some information on regulations to, in all export markets (including the EU) https://www.check-duties-customs-exporting-goods.service.gov.uk/selectdest?_ga=2.74757393.2098389943.1594626790-1650061039.1577462002.

Information on the duty suspensions the UK will apply is coming soon

Importers of steel should consult information on **UK Steel Safeguards** at <https://www.gov.uk/government/publications/notice-of-determination-safeguard-measures-on-certain-steel-products-application-of-tariff-rate-quotas/notice-of-determination-202006-safeguard-measures-on-certain-steel-products-annexes-online-version>.

UK **trade remedies** can be found at <https://www.gov.uk/guidance/trade-remedies-transition-policy#:~:text=Trade%20remedies%20protect%20domestic%20industries,includes%20a%20trade%20remedies%20system>.



Links to EU Commission guidance

For EU import procedures, the starting point can be found at <https://trade.ec.europa.eu/tradehelp/eu-import-procedures>; for EU tariff at https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/what-is-common-customs-tariff/taric_en and on VAT at https://ec.europa.eu/info/sites/info/files/brexit_files/info_site/vat-goods_en_0.pdf. The refund process differs across member states but https://europa.eu/youreurope/business/taxation/vat/vat-refunds/index_en.htm is a starting point.

ENERGY

	Current arrangements	No deal
Energy	Tariff and barrier free access to the internal energy market (IEM) for natural gas and electricity.	UK and EU expected to have continued access to each other's energy markets. EU has zero energy tariffs to ROW. BEIS and Ofgem working to address non-tariff barriers.

Key changes under a no-deal scenario

As an EU member, the UK has tariff-free and barrier-free access to Europe's internal energy market for natural gas and electricity. In the event of a no deal Brexit, the expectation is that **the UK and EU would have continued access to each other's energy markets**. The EU currently has zero tariffs on energy to the rest of the world, and both BEIS and Ofgem are working to address non-tariff barriers.

In the long term, **a loss of access to IEM is considered unlikely**. The National Grid estimates that, with no access to IEM and

its security of supply benefits, the cost to UK consumers could be as much as £500m a year by 2020.

Furthermore, **the UK could become a third party under the EU's gas solidarity mechanism**. This mechanism is designed to address supply disruptions within the EU. In place to protect and prioritise supplies to members states in extreme events, the likelihood of occurrence is negligible and the UK's highly liquid market and diverse supply mix should limit any impacts.

The no-deal technical notices indicate that the Government has identified contingencies for all potential scenarios.



Key points to consider for contingency planning

What energy contracts are in place with EU entities, and will Brexit have any impact?

What purchasing strategy is appropriate during the Brexit period?

Further reading

www.gov.uk/government/publications/generating-low-carbon-electricity-if-theres-no-brexit-deal
www.gov.uk/government/publications/running-an-oil-or-gas-business-if-theres-no-brexit-deal
www.gov.uk/government/publications/trading-gas-with-the-eu-if-theres-no-brexit-deal
www.gov.uk/government/publications/trading-electricity-if-theres-no-brexit-deal

CLIMATE CHANGE

	Current arrangements	No deal
Climate change	Requirement to comply with the EU Emissions Trading Scheme (EU ETS) Phase 4 of the EU ETS (2021-2030) has been largely agreed, although preparations for implementation are ongoing at the EU level.	UK participants will be required to surrender EU ETS allowances, for emissions between 1 January 2020-31 December 2020, before 30 April 2021. For emissions after 31 December 2020, UK participants will be subject to either a UK ETS (linked to the EU ETS or standalone) or UK Carbon Emissions Tax. Whichever replacement scheme is chosen, EU ETS Phase 4 monitoring, reporting and verification requirements will apply.

Key changes under a no-deal scenario

The UK is currently participating in Phase 3 of the EU ETS, which began in 2013 and will conclude at the end of 2020. Phase 4 of the EU ETS is set to run from 2021 to

2030 and has been largely agreed, although preparations for its implementation are still ongoing at the EU level.

Article 96 of the Withdrawal Agreement, concluded between the EU and the UK, establishes that UK operators will need to comply with the EU ETS for the final year

of Phase 3. This means participants will be required to submit an EU ETS annual emissions report covering 2020 emissions data by 31 March 2021, and surrender EU allowances (EUAs) commensurate with their obligations under the scheme by 30 April 2021.

In order to do so, participating UK operators will retain access to the Union Registry and the UK's Kyoto Protocol Registry. UK trading accounts will be blocked from 1 January 2021, but UK operators will still be able to transfer EUAs from EU trading accounts to UK operator holding accounts. UK businesses that have trading accounts in EU member states will be able to buy EUAs with those trading accounts. The UK has also been permitted to issue free allowances and to auction EUAs to cover compliance obligations for the 2020 reporting year.

The Government has confirmed that it will introduce a replacement carbon pricing scheme from 1 January 2021 that will apply to those UK operators who would otherwise have been eligible for Phase 4 of the EU ETS. However, the Government has not yet confirmed whether the scheme would be a UK ETS that is linked to the EU ETS, a standalone UK ETS, or a carbon emissions tax (CET). The Government laid legislation in July 2020, in each of the four legislatures, and a UK ETS registry is in development to allow for implementation from the start of 2021.

The proposals for a UK ETS (linked or standalone) are outlined in the Government response to the BEIS consultation on The Future of UK Carbon Pricing at www.gov.uk/government/consultations/the-future-of-uk-carbon-pricing. Phase 1 would run from 2021-2030, to match Phase 4 of the EU

ETS. From the start, the rules would broadly mirror Phase 4 of the EU ETS but with a review of benchmarks in 2021, an emissions cap set at 5% below the UK's share of the EU ETS cap, and an emission reduction trajectory set by the Committee on Climate Change.

In a standalone UK ETS or CET, UK operators would not be permitted to use any banked EUAs for UK compliance obligations and UK operators would lose access to the Consolidated System of European Registries (CSEUR) after the 2020 surrender deadline (30 April 2021). The Government therefore advises participants to transfer their surplus EUAs before this deadline, to accounts in the parts of the CSEUR administered by other participating states of the EU ETS, in order not to lose access to their holdings.

In a standalone UK ETS, a Supply Adjustment Mechanism (SAM) and temporary Auction Reserve Price (ARP) would replace the EU's Market Stability Reserve (MSR), to prevent a drop in allowance price. A Cost Containment Mechanism (CCM) would replace the EU's Article 29a mechanism to address price spikes.

The draft proposals for a CET are outlined in HMT's consultation on a Carbon Emissions Tax at www.gov.uk/government/consultations/carbon-emissions-tax. Under a CET, UK operators would also follow a monitoring, reporting and verification (MRV) procedure that mirrors Phase 4 of the EU ETS. Free allocation would be replaced by a free 'tax emission allowance' and there would be no transfer or banking of allowances. Operators would be paid to reduce emissions below their tax emission allowance, but potentially at a rate that is

less than the tax rate. The tax rate would be linked to the EU ETS average spot clearing price and an indicative rate for each year would be published in advance.

Under a UK ETS or CET, existing holders of greenhouse gas emissions permits would not need to register for the new tax, as the regulators would use existing data to determine who is liable. UK operators would be required to use verifiers who are accredited by the UK Accreditation Service to obtain verification reports.

We expect that in addition to free allocation, **energy-intensive industries should retain access to indirect emission compensation**, as part of their carbon leakage protection package. An equivalent to the current scheme that compensates these industries for the indirect emission costs of the EU ETS would be established, subject to EU/UK negotiations, UK ministerial sign-off and House of Commons clearance.

The UK-only **Carbon Price Support (CPS) will remain in place until 2021**. This tax was introduced in 2013 and applies an additional carbon price to all fossil fuels used in energy generation. The 2018 Budget confirmed that the CPS rate would be frozen at £18/tonne of CO₂ until 31 March 2021.



Key points to consider for contingency planning

Continue to comply with the EU ETS Phase 4 MRV requirements after 2020. Operators should plan to employ a verifier who is accredited by the UK Accreditation Service.

Prepare for compliance under all three potential carbon pricing schemes.

Transfer any holdings of EU ETS allowances to a Union Registry trading

account in another EU member state, before 1 May 2021. The account can be in your company's name, or in a third-party escrow account.

Look out for developments on the government's website. The relevant notices below cover meeting climate change requirements, proposals for a UK ETS and draft proposals for a CET.

Further reading

www.gov.uk/government/publications/meeting-climate-change-requirements-if-theres-no-brexite-deal
<https://www.gov.uk/government/consultations/the-future-of-uk-carbon-pricing>
<https://www.gov.uk/government/consultations/carbon-emissions-tax>

ENVIRONMENT

	Current arrangements	No deal
Principles & Governance	About 80% of UK environment law originates from EU regulations and directives. The EC oversees Member State implementation. Each UK country has the power to set its own environmental laws.	The European Union (Withdrawal Act) 2018 ensures existing EU environment law continues to have effect in UK law beyond the end of the transition period but may be subject to change. In England, gaps in principles and governance would be addressed by a new Environment Act, including a new Office for Environmental Protection, and powers to create and update requirements. Similar legislation is under development in the devolved administrations and therefore divergence within the UK could increase.
Industrial Emissions Directive (IED)	UK governments, agencies and other stakeholders can no longer vote on new requirements including the approval of new BREFs and are only 'observers' in the Technical Working Groups. EU Best Available Techniques (BAT) conclusions, published before the end of the transition period, have to be implemented in the UK via environmental permits and related legislation.	The EU Withdrawal Act 2018 and secondary legislation provides continuity for existing requirements. The Act amends current legislation to correct references to EU legislation, transfer obligations from EU institutions to UK institutions, and ensure the UK meets international agreements. In England, future Best Available Techniques would be defined through a new process, expected to draw from international information such as EU BREFs. Devolved administrations may choose to be fully engaged with that process or they may take a different approach. Without further agreements, the UK would no longer formally participate in some or all EU IED groups.
Shipments of waste	The UK's Transfrontier Shipments of Waste Regulations 2007 implement the EU Waste Shipments Regulations, which are both based on the provisions of the Basel Convention and the OECD decision on waste shipments.	The UK would be treated as an 'OECD decision country' in the EU Waste Shipments Regulations. The current waste shipments procedures would continue to apply and the UK would continue to implement similar rules on waste movements and remain party to the Basel Convention and subject to the OECD decision. Many existing consents would continue to be valid for movements of waste between the UK and the EU but there are exceptions. New tariffs may apply to waste exported to the EU, and additional procedures (e.g. presenting the movement document) would be required.

Key changes under a no-deal scenario

The UK has **committed to upholding environmental standards** in the event of a no-deal exit. Existing EU environment law not already on the UK statute book has been transposed through the EU Withdrawal Act and secondary legislation and is unlikely to be subject to substantial change, at least in the near term. However, it is likely that there would be amended, updated and new environment laws in the future, depending on various factors such as the political environment. Messages from government focus on maintaining and improving environmental outcomes and politicians across the UK have stated ambitions for global environmental leadership.

Negotiations are expected to continue about the extent of consistency and collaboration across the devolved administrations, both up to and after a

no-deal exit.

Some potential gaps that would result from EU exit are addressed in the 2020 Environment Bill, which continues its passage through Parliament with the goal of gaining Royal Assent and to be made an Act before 2021. Under the Bill, an Office for Environmental Protection would be set up to carry out functions in England that were previously covered by EU bodies and hold governments to account on their environmental commitments and obligations. The Bill would also establish five environmental principles, to be accompanied by a policy statement from the Environment Secretary on their interpretation and application. Similar withdrawal legislation has been introduced by the devolved administrations, with plans for comparable approaches to principles and governance. The recent

Scotland Continuity Bill however seeks to provide Scottish ministers powers that enable devolved competencies, including the environment, in Scottish law remain as close as possible to future EU law.

Industrial Emissions Directive

Since the beginning of the Transition Period, UK governments, agencies and other stakeholders have lost voting rights on EU Best Available Techniques (BAT) conclusions, which are the mandatory requirements within BREF (AKA Best Available Techniques Reference) documents that must be implemented through environmental permits. Since January 2020, the UK has also not been in full membership of the Technical Working Groups (TWGs) that govern the exchange of information when BREFs are being developed or updated and instead the

UK is classified as an 'observer' whereby some access to the information within the TWGs is accessible but without the opportunities to input to and influence the process.

In the event of a no-deal exit, the EU Withdrawal Act 2018 includes secondary legislation (with further legislation in the devolved administrations where necessary) to ensure the domestic legislation that implements the IED would continue to operate by addressing 'deficiencies' and ensuring that international obligations are still met. This would require implementation of BAT conclusions published before the end of the transition period. The UK Government and the devolved administrations would also have powers to define and implement future requirements for Best Available Techniques e.g. that would be created through the 2020 Environment Bill.

Investments for **compliance with the Industrial Emissions Directive** can be very expensive, and the project planning and implementation process can take several years. Not only this, but given the significance to chemical manufacturing, the requirements often influence the overall business plans of sites and need to be factored into strategic decisions. Brexit-related uncertainty has added further layers of complexity and has impacts on

decisions regarding inward investment. Defra is expected to consult on behalf of England, potentially in collaboration with some or all of the devolved administrations, for a future process to determine Best Available Techniques. EU BREFs not published before the end of the transition period would then be expected to be considered by the new BAT process. However, the current Scotland Continuity Bill may result in EU BAT conclusions being implemented in same way they are required to be in the EU.

Waste shipments

The UK is a party to the Basel Convention on the Control of Transboundary Movements of Hazardous Waste, and as a member of the OECD is also subject to the OECD Decision regarding transboundary movements of recoverable wastes. The EU Waste Shipments Regulation implements both of those international agreements, along with other requirements. The relevant UK legislation is the Transfrontier Shipments of Waste Regulations.

The UK and all EU member states have agreed that most **existing consents will continue to be valid** for movements of waste between the UK and the EU. With a no-deal exit, **the UK would be treated as an 'OECD decision country' in the**

EU regulations, which would prevent exports from the EU to the UK of waste for disposal, or mixed municipal waste for recovery. The rules regarding shipping waste for recycling under the Green Control Procedure would be unchanged. The UK would continue to implement similar rules on waste movements and meet its international obligations. Tariffs may apply for waste that has a positive value. This would include waste streams exported to the EU for recovery.

Agreements reached between the UK and EU Member States mean that **consents for waste shipments agreed before a no-deal exit would still be valid after exit**, subject to some exceptions, and provided additional procedures are fulfilled. **The main additional procedure is that the Waste Carrier must possess a copy of the Waste Movement Document and present it to the Customs Office of Entry if requested.** If importing to Germany, a copy of the Movement Document must always be presented. The full details of this are available in the Border Operating Model below. Customs declarations will also be required. Movements of waste are likely to face similar disruption to the movement of other goods, such as queues at ports and other potential impacts on infrastructure and transportation.

Key points to consider for contingency planning

Engaging with CIA and relevant regulators is advisable if the uncertainty caused by Brexit is complicating investment decisions that are required under the Industrial Emissions Directive – for example, regarding deadlines about future UK Best Available Techniques.

Several measures can be taken now regarding **continuity and contingency plans for shipments of waste**. The additional procedures that would be required to permit continued waste

movements to and from the EU, such as ensuring waste carriers hold a copy of the waste movement document, are outlined in the UK guidance on the topic linked below.

It is important to **consider risks of disruption to waste movements** and form contingency plans, including an analysis of whether there are alternative routes or treatment options, should they become necessary.

Companies could also **consider using customs agents**, both in the UK and the EU, to facilitate customs processes.

If waste is being shipped by an external waste management company, businesses are advised to **ask whether relevant continuity and contingency plans are in place**, including relevant disruption risks and options to mitigate them.

Further information

UK guidance on upholding environment standards if there is no deal
www.gov.uk/guidance/upholding-environmental-standards-if-theres-a-no-deal-brex
Devolved administrations' scrutiny on draft Environment Bill
publications.parliament.uk/pa/cm201719/cmselect/cmenvaud/1951/195109.htm
UK (England) Environment Bill summer policy statement
www.gov.uk/government/publications/draft-environment-principles-and-governance-bill-2018/environment-bill-summer-policy-statement-july-2019



UK guidance on industrial emissions standards if there is no deal

www.gov.uk/government/publications/industrial-emissions-standards-best-available-techniques-if-theres-no-brexite-deal/industrial-emissions-standards-best-available-techniques-if-theres-no-brexite-deal

Defra's Clean Air Strategy 2019 (chapter 8 – industrial emissions)

www.gov.uk/government/publications/clean-air-strategy-2019

HMG Border Operating Model – The Border With the European Union – importing and exporting goods (page 30 for waste)

<https://www.gov.uk/government/publications/the-border-operating-model>

UK guidance on waste shipments if there is no deal (includes links to other resources)

www.gov.uk/guidance/importing-and-exporting-waste-if-theres-no-brexite-deal

Current UK guidance on waste – imports and exports

www.gov.uk/guidance/importing-and-exporting-waste

REACH

	Current arrangements	No deal
REACH	UK complies with EU regulations. ECHA is the central regulatory agency in the implementation of REACH, CLP, BPR and PIC.	EU regulations cease to apply to Great Britain. Imports to the EU must continue to comply with EU regulations. UK Government implements separate UK REACH, CLP, BPR and PIC and builds necessary infrastructure. Industry is required to re-submit dossiers to the UK authority.
Voting rights	As soon as the transition period started, the UK Government lost its voting rights and the power to influence EU rules.	No voting rights and no power to influence EU rules once the transition ends.

Key changes under a no-deal scenario

Chemicals regulations such as EU REACH will cease to apply to Great Britain (GB) as soon as the transition ends. This will happen irrespectively of the outcome of the UK/EU negotiations on the future relationship. Imports into the EU will still have to be EU REACH compliant, while imports into GB will be subject to new UK legislation. REACH, and other chemicals legislation, will be converted into UK law via the EU (Withdrawal) Act. As a result, similar regulatory requirements for the manufacture, import and supply of chemicals will apply in GB.

Registration, authorisation, Substances of Very High Concern (SVHC) communication and restrictions will remain key provisions of the future UK scheme. Although this would be similar in structure, under a no-deal scenario the EU and UK regimes would operate independently and could diverge in future.

From the end of the transition period, the Protocol on Ireland/Northern Ireland will apply, subject to a periodic consent of the Northern Ireland Assembly. Under the Protocol, EU REACH, BPR and CLP will continue to apply to Northern Ireland as part of the solutions identified by the Withdrawal Agreement to avoid a hard border on the island of Ireland. Businesses based in Northern Ireland are also set to maintain unfettered access to the GB market under specific arrangements. Further guidance is available on HSE's website, please check regular updates.

Registrations, authorisations and approvals that were obtained before the end of the transition by businesses based in GB will become void in the EU, unless they are transferred to an EU27/EEA legal entity. EU27/EEA companies who import from GB, and were previously considered downstream users, may instantly be deemed importers under EU

REACH and, potentially, have new REACH registration duties to comply with if they are not supported by their suppliers.

Furthermore, in case of no deal, **access to REACH dossiers via the ECHA database would be lost** and the UK authority would be unable to continue to evaluate chemicals in the UK. Registrations obtained in the EU by GB-based businesses would need to be resubmitted under UK REACH, if the manufacture and import of chemicals is to continue at 1 tonne or more per year.

GB-based companies who source chemical substances or mixtures from the EU, either directly or in articles, and who were previously deemed **downstream users under EU REACH may immediately become importers under UK REACH.** Again, there may be new registration obligations, if these are not supported by suppliers.

Key points to consider for contingency planning

All companies are advised to **identify all products within their supply chains that may be affected by a no-deal.** They should review the status of related existing approvals, authorisations and registrations. This applies to substances, mixtures and articles.

Any existing **data sharing contracts may have to be reviewed** to permit the use of EU data for future compliance with UK regulations.

It is essential to **establish whether, and how, a company's role in supply chains may change,** and how they would

maintain market access, both in the EU and the UK. Companies are advised to engage with their suppliers and customers to identify how any potential disruption might be minimised.

Existing EU approvals should be transferred to EU-based

representatives. ECHA has set up a process for this. Transfer of dossiers must be initiated before 31 December 2020. ECHA has guaranteed timely support until 15 December 2020. The Agency will be closed between Christmas (24 December) 2020 and 1 January 2021 inclusive and will not be able to answer questions received during the closure, before reopening on 4 January 2021. If companies use a suspensive conditional clause, it is important that the successor reviews the transfer but does not proceed to accept it yet. After the end of the transition period, the EU successor will need to accept the transfer as soon as possible, and within 3 months. Please check ECHA news alerts regularly for updates.

To mitigate the impact of a no-deal scenario in the short term, the UK Government plans to introduce some **transitional arrangements in the UK.** On

REACH, these measures will apply to GB-based companies with existing EU-REACH registrations and UK-based companies currently importing EU-REACH registered substances in the UK, respectively through a grandfathering process (120 days) and a notification scheme (300 days). A full registration would then be required at a later stage with a timeframe based on tonnage bands and the hazard profile of the substance (i.e. within 2, 4 or 6 years from 28 October 2021). Companies that may wish to manufacture or import chemicals in GB for the first time after the end of the transition would need to register before manufacture or import into the UK reaches 1 tonne per year. GB-based companies sourcing products from outside the UK are advised to liaise with suppliers, who may be able to relieve them from notification and registration requirements under UK REACH by appointing an Only Representative (OR)

after the end of the transition. Transitional arrangements will also be in place for other regulations such as the Biocidal Products Regulation (BPR). Please consult the HSE website for more detailed information.

Companies are advised to identify all the substances they import into the UK, and track volumes. For example, this will determine whether there will be any registration obligations under UK REACH that apply to individual chemicals, and also those included in imported mixtures.

As part of the future UK REACH implementation, **UK registrants will need to familiarise themselves with a new IT system** the UK Government will put in place to process REACH dossier submissions.

Further information

REACH

Companies who will need to maintain trade with the EU should read the ECHA manual on how to transfer registrations

echa.europa.eu/documents/10162/13552/how_to_transfer_uk_reach_registrations_en.pdf

UK Government guidance on UK REACH

<https://www.gov.uk/guidance/how-to-comply-with-reach-chemical-regulations>

CIA's REACHReady helpdesk has launched a 'no-deal Brexit navigator' designed to help companies understand their REACH obligations for maintaining UK and EU market access and any potential actions they may need to take in light of UK withdrawal

www.cia.org.uk/reachready/SiteAccess/Login?returnurl=%2freachready%2fBrexit

Cefic and CIA have also published advice for companies to prepare for a future scenario with the UK out of REACH.

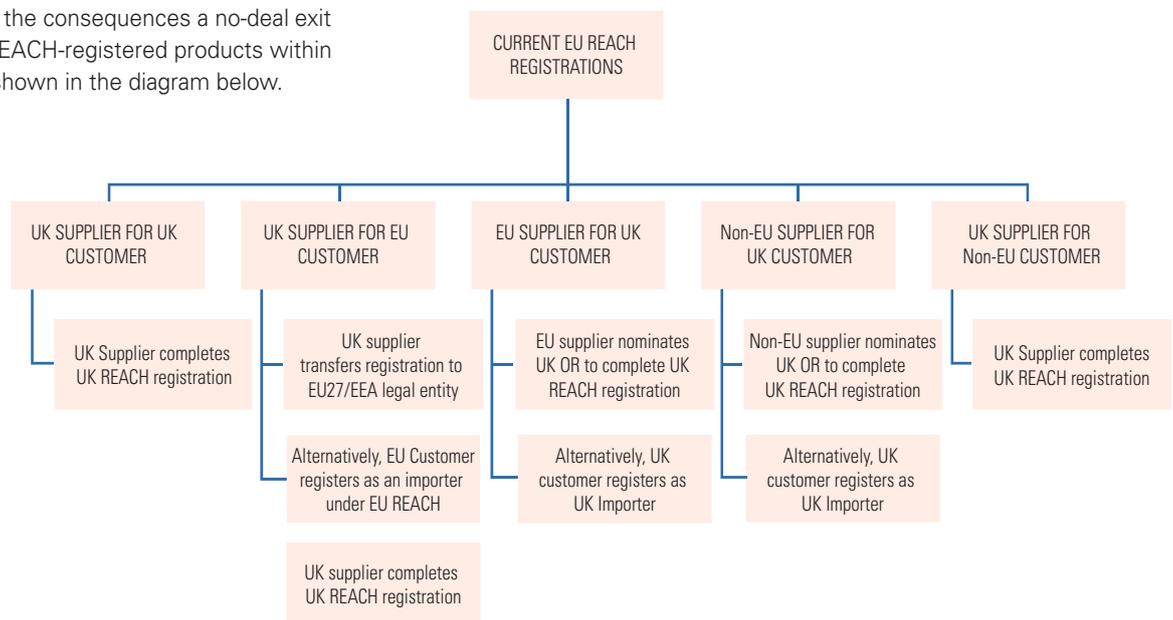
https://www.cia.org.uk/Portals/0/Brexit_Preparing_for_UK_out_of_REACH_Scenario%20Updated%2025%20September%202020%20FINAL.pdf?ver=2020-10-08-094057-953

BPR, CLP, PIC

Advice and Brexit Q&A can be found on the ECHA website echa.europa.eu/advice-to-companies-q-as/general

Guidance material and different scenarios on how the UK chemical sector and its supply chains would be regulated in case of no-deal Brexit is available on the HSE website <https://www.hse.gov.uk/brexit/chemicals-brexit-guidance.htm>

A few scenarios of the consequences a no-deal exit may have for EU REACH-registered products within supply chains are shown in the diagram below.



HEALTH & SAFETY

There would be **little or no change to the current scope, application and enforcement of primary health and safety legislation** for our sector in the event of a no-deal Brexit. The Health & Safety at Work Act 1974 is not European-based, and therefore would not change, and neither would any regulations made under it.

Regulations based on European Directives, for example COMAH 2015 which implements the Seveso III Directive,

would, effectively, continue. There would be some minor changes of terminology to reflect changes once the UK is no longer a Member State, but otherwise the status quo would remain for the foreseeable future.

CIA's discussions at senior level with HSE and the environment agencies have confirmed there is no appetite in government to use Brexit as an opportunity to either reduce or tighten the standards expected of UK businesses.



EMPLOYMENT

	Current arrangements	No deal
Employment law	UK adopts EU employment regulation.	<p>EU employment law ceases to apply in UK.</p> <p>Government 'technical notice' on workplace rights in the event of a no-deal Brexit states that there will be minimal change to UK legislation derived from EU law, and existing employment rights would not be changed.</p> <p>UK businesses with EWCs may need to review those agreements in the absence of UK/EU reciprocal arrangements. Trade unions are pushing for a clause in the agreement that UK reps can remain on EWCs.</p>

A new immigration policy

EU/EEA and Swiss citizens can remain working in the UK if they apply for 'settled status' before 30 June 2021. On doing this they will be granted settled or pre-settled status. Settled status will be given to those who have lived continuously in the UK for five years and this enables the holder to remain in the UK indefinitely. Pre-settled status will be given to those who do not yet have five years' continuous residence. Individuals with pre-settled status can apply for settled status once they have accrued five years' continuous residence. The application process can be completed via any mobile device or computer.

From 1 January 2021 a new immigration policy will apply. The new system will treat EU and non-EU citizens equally. Anyone you want to hire from outside the UK, excluding Irish citizens, will need to apply for permission in advance. Under a points-based immigration system, anyone coming to the UK for work must meet a specific set of requirements for which they will score points. Visas are then awarded to those who gain enough points.

Our current understanding is that this is not a contentious issue in the UK:EU negotiations so will apply whether there is a deal or not.

Under the new skilled worker system, anyone coming to the UK to work will need to demonstrate that:

- they have a job offer from a Home Office licensed sponsor
- the job offer is at the required skill level – RQF 3 or above (A Level and equivalent)
- they speak English to the required standard.

In addition to this, the job offer must meet the applicable minimum salary threshold. This is the higher of either:

- the general salary threshold of £25,600, or
- the specific salary requirement for their occupation, known as the 'going rate'.

All applicants will be able to trade characteristics, such as their qualifications, against a lower salary to get the required number of points. If the job offer is less than the minimum salary requirement, but no less than £20,480, an applicant may still be eligible if they have:

- a job offer in a specific shortage occupation
- a PhD relevant to the job
- a PhD in a STEM subject relevant to the job.

For the most part this is unlikely to impact member company roles, but it could do and it could impact organisations and individuals they work with. Being aware of this law and any subsequent changes will be important.

Key changes under a no-deal scenario

Under a no-deal scenario, **legal redress in disputes between employers and their employees would stop at the UK Supreme Court.** The UK would have no

voting rights or power to influence EU rules. European Works Councils would no longer apply in the UK.

Key points to consider for contingency planning

Ensure all employees and workers have the right to work in the UK. Identify EU staff in readiness for the outcome of Brexit talks, and determine which are in roles defined as key positions.

Future skills planning is important anyway and CIA member companies

work to achieve this, but if the potential recruitment pool becomes smaller or more challenging then the importance increases.

Remember that the provision of services and affected staff could apply in either direction – UK to EU or EU to UK.

Further reading

All of the new detail can be seen here:

<https://www.gov.uk/government/publications/uk-points-based-immigration-system-employer-information/the-uks-points-based-immigration-system-an-introduction-for-employers#:~:text=Contents&text=From%201%20January%202021%2C%20free,apply%20for%20per-mission%20in%20advance>



CONTACT

Nishma Patel
Policy Director
Chemical Industries Association
Kings Buildings, Smith Square, London, SW1P 3JJ
Mob: +44 (0)7885 831742
Telephone: +44 (0)20 7963 6782
Email: PatelN@cia.org.uk
www.cia.org.uk

Simon Marsh
Communications Director
Chemical Industries Association
Kings Buildings, Smith Square, London, SW1P 3JJ
Mob: +44 (0)7951 389197
Telephone: +44 (0)20 7834 3399
Email: MarshS@cia.org.uk
www.cia.org.uk

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