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To: House of Lords EU Energy & Environment Sub-Committee 1st October 2018

Re: The Future of Chemical Management and Regulation Post EU Exit – supplementary points

I wrote to the committee clerk previously on 17 August 2018, to share ideas and perspectives from the Royal Society of Chemistry on the government's intentions for future chemicals regulation post EU exit.

We would like to add some further points around critical unanswered questions, after consideration of the National Audit Office report on Defra's 'Progress in Implementing EU exit' (12 September 2018) and the technical note on 'Regulating chemicals (REACH) if there's no Brexit deal' (released by Defra on 24 September 2018).

The NAO state that **the value of the UK's exports of chemicals and chemical products to the EU in 2017 was £17 billion**. This figure highlights the significance of implementing an effective chemicals regulation system in the UK from March 2019 onwards. There remain some important gaps in the information provided to date on chemicals regulation and what will happen if the UK does not achieve a new legal agreement to fully participate with the European Chemicals Agency (ECHA), in particular to continue to share data and expertise, post EU exit.

1) ***How*** **will UK decision-making be informed and** ***Who*** **will make the decisions?**

It is clear from the 'no deal' technical note that "The Health and Safety Executive (HSE) would act as the lead UK regulatory authority, from the day the UK leaves the EU, building on its existing capacity and capability". We presume that the required legal instruments will be in place in UK law by 30 March 2019, to enable the HSE to act as the 'decision-making' body for all relevant chemicals regulation including:

- Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (Regulation (EC) No 1907/2006)
- Classification, Labelling & Packaging (CLP) Regulations (Regulation (EC) No 1272/2008).
- Prior Informed Consent (PIC) (Regulation (EU) 649/2012)
- Plant Protection Products (PPPR)
- Biocidal Products Regulation (BPR)

to replace the decision-making functions that are currently performed by the EU and its agencies for these regulations.

This statement, however, does not explain
- *how* will decisions be made and *by whom*?
- what decision-making frameworks will be used?
- how evidence and scientific review of the data for chemicals will feed into decision-making?

2) **Will there be a new and appropriate 'scientific advice mechanism' for the UK?**

Decision-making for chemicals in the EU currently draws upon the process of chemical hazard and risk assessment. Chemicals risk assessment is complex and involves thorough evaluation of scientific data and evidence by experts in disciplines such as human and environmental exposure to chemicals, analysis and monitoring of chemicals, chemical toxicology, statistics, uncertainty assessment, risk assessment

approaches etc. Currently there are EU scientific committees, working groups and a Scientific Advice Mechanism (https://ec.europa.eu/research/sam/index.cfm), where science is discussed to support critical decision-making, for example on issues such as microplastics pollution, use of glyphosate in weed-killers, authorisation of plant protection products, endocrine disruptors and effects on human health etc.

It is vital that there are structures in place to ensure chemicals regulation is informed by excellent and relevant science, including discussion of the scientific evidence. Where will such discussions take place for UK decision-making? Will the HSE be calling upon academics and other researchers to provide independent and impartial expertise, from the UK or globally? Will consultants' expertise be bought in? Will the government recruit in-house scientific capability to review complex dossiers of data? What guidance (EU or new UK guidance?) will be followed for chemicals risk assessment? Who will pay for technical expertise?

All of these questions currently remain unanswered.

We recommend achieving as close a working partnership as possible with the European Chemicals Agency, to enable full access to the same existing data for chemicals and to continue to discuss the science around key chemicals within EU technical groups, with a view to reaching harmonised decisions based on the same evidence, to support trade in both directions for the UK and EU going forward.

If a new legal agreement to work via 'association' or similar with ECHA cannot be achieved, the chemistry community will need to know what the exact mechanisms of decision-making and data review are to be going forward. The situation is similar to that for the European Medicines Agency. It should be fully acknowledged that with no deal, it will take a substantial amount of time (likely to be many years) to build a fully functioning UK database akin to that held currently by the European Chemicals Agency for the purposes of REACH. It is unlikely to be exactly the same data in UK databases, as new legal agreements will need to be in place between companies to allow data sharing for the purposes of UK regulation. Companies may need to pay data-holders further money for such access to industry held data. Prioritisation of reviewing and evaluating chemical hazards and risks is likely to be needed in the short to mid-term. Differences in data are likely to lead to differential and divergent decision-making from day 1 after EU-exit.

There are likely to also be significant technical problems to address where UK industries import chemical mixtures from the EU for use in manufacturing products. Typically UK importers of mixtures have not necessarily had to know the composition of a mixture as EU manufacturers led on the safety of components within REACH. Regulating mixtures is a specific area that concerns our members, and requires further exploration and discussion on how to resolve the issues that will arise for imported and exported chemicals mixtures post EU exit.

I hope this further information is useful to the committee's ongoing inquiry.

Yours sincerely,

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