Chemicals policy and regulation update

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1. Broad policy issues

1.1. Chemicals Strategy

Our goal is to protect health and the environment while enabling economic growth through managing the production, use and disposal of chemicals.

The Government's 25 Year Environment Plan committed to a new strategy to tackle chemicals of concern and help ensure the levels of harmful chemicals entering the environment are significantly reduced. Government is developing a Chemicals Strategy which will set out our immediate priorities, alongside any actions we will need to take to achieve safer and more environmentally sustainable management of chemicals for present and future generations.

Work on developing a Chemicals Strategy is underway. **Defra is running six workshops across the late Spring – Summer 2022** to help inform a Strategy across the following themes: Vision and Principles (31 May); Innovation (14 June); International (7 July); Priority Chemical Issues and Future Chemical Risks (14 July); Managing Chemicals through their Lifecycle (26 July); and Effective Regulation (11 Aug). The broad aim of the workshops is to share cross-government thinking on a Strategy so far and to hear stakeholder views. We will set out next steps on the Strategy following the workshops.

1.2. Chemicals in Waste

Defra is working on several policy issues around chemicals in waste, and we hope to engage further with the CSF as a part of policy development in this area. **We have re-started a working group on the chemicals-products-waste interface**. Please contact Jack Brown if you are interested in joining this group: jack.brown@defra.gov.uk.

1.3. The "Essential use" concept

Evidence on the risks associated with certain chemicals can sometimes emerge long after they have been in use and, therefore, regulatory action occurs after damage has been done to the environment and human health. However, it is without a doubt that chemicals, used responsibly, offer benefits to society. Essential use is a term that aims to identify applications of chemicals but limits their potential utility in some way by allowing their use when it is "essential" and prohibiting other uses to limit exposure and potential harms. There are different ways this can be interpreted and could be applied within our regulatory framework and has generated much debate in recent years. The concept of 'essential use' is one approach that has been proposed to aid the regulation of data poor chemicals in the context of the need for precautionary control. It is already in use in the Montreal Protocol and is being discussed for potential wider application for chemicals regulation.

Building on discussions of a CSF working group in 2021 and to inform policy development on this topic, the Royal Society of Chemistry (RSC) hosted a workshop on 9th June 2022. The workshop was organised in collaboration with Defra, CIA, Fidra, HSE and Prof. Ragnar Lofstedt (King's College London). There were presentations on a range of topics including risk perception and risk management from other areas of policy, essential use within the context of risk management of chemicals and insights from social sciences on the concept. Breakout sessions allowed for further discussion among participants. The workshop outputs will be made available in due course. These will inform our ongoing policy development to assess whether it is beneficial for the UK to adopt this concept into regulation and assess options for use of "essential use" within chemicals regulation in the UK. We will also consider the outputs from work in the EU to inform any UK approach on this issue.

2. Update from Devolved Administrations

2.1. Scotland

Forum – The sixth meeting of the Scottish Chemical Policy Network (SCPN) took place on 6 June 2022, and the seventh meeting will be before the end of 2022. Anyone interested in participating in the SCPN or with any issues which they wish to present to the Scottish Government, should contact chemicals@gov.scot.

2.2. Northern Ireland

As a result of the Northern Ireland Protocol several EU environmental regulations continue to apply in Northern Ireland (NI) including EU REACH. Since 1st January 2020 five restrictions have come into force in EU REACH which will be applicable in NI; substances in tattoo inks and permanent make-up, lead shot over wetlands, PAHs in granules used as infill, C9-C14 PFCAs and DMF (N,N-dimethylformamide).

2.3. Wales

The Welsh Parliament's Climate Change, Environment and Infrastructure Committee has been scrutinising the **Common Framework on Chemicals and Pesticides**. Letters between the Committee and Welsh Ministers and the Committee's report containing recommendations regarding the Common Framework have been published.

On 5 July the First Minister of Wales announced the **Welsh Government's legislative programme** for the coming year. It includes the intention to introduce a Bill on single use plastics, and a Clean Air Bill. A transcript of the full statement has been published.

3. UK REACH – Update from DEFRA

3.1. Transitional registrations

The deadlines for notifications of Grandfathered EU registrations and for Downstream User Import Notifications (DUINs) have now passed. Companies can still submit this information using the Comply with UK REACH service, if eligible to do so. They should do this as soon as possible to come back into compliance.

Defra commitment to explore alternative arrangements for UK REACH transitional registrations

In December 2021 Defra committed to exploring alternative arrangements for transitional registrations to support chemical businesses, whilst upholding a high level of human and environmental health protection in line with our international commitments. The model we are proposing would reduce the need for companies to access EU REACH data packages, placing greater emphasis on improving our understanding of the uses and exposures of chemicals in the GB context.

The model is being developed with technical experts at the Health and Safety Executive and Environment Agency to ensure that industry's responsibilities and the regulators' ability to exercise their functions are not adversely affected. We have started detailed technical, working level discussions with industry practitioners.

Defra consulting on extending the current deadlines for transitional registrations

Last year Defra committed to consulting on extending submission deadlines, to allow time to develop the alternative model for transitional registration, and if the decision is made to proceed, to develop and pass the necessary legislation. It is also necessary to allow industry time to comply with any new arrangements.

On 5 July Defra launched a public consultation, seeking views on:

- two options to extend the current deadlines for transitional registration;
- extending the dates for the Agency (HSE) to carry out compliance checks on 20% of registration dossiers.

The consultation closes 1 September 2022.

3.2. Monitoring and Evaluation

Stage 1 of the evaluation of the transition to UK REACH is underway. The focus of the evaluation at this stage is on how well UK REACH processes are functioning, the emerging costs and benefits of UK REACH to UK businesses, and how businesses are adapting to the regulatory changes.

Data collection for the evaluation has now finished and the data is currently being analysed. We would like to sincerely thank our many stakeholders that participated. We have interviewed several businesses, trade associations and NGOs. The survey to industry was completed by just short of 600 businesses.

3.3. Project to improve UK REACH

UK REACH has now been in force for over a year. During this time, we have identified areas where UK REACH could be improved. This has been reinforced by feedback we have received from stakeholders, such as yourselves. Therefore, Defra and the Devolved Administrations are beginning a project to consider how best to improve the way UK REACH works and enable it to deliver UK priorities effectively. The first stage of this project is to identify and prioritise our objectives. We will then develop proposals to fulfil these objectives. Areas that we would like to consider include (but are not limited to):

- Improving protection of human health and the environment by focussing on key risks in the GB context.
- Streamlining processes (such as restriction), whilst maintaining scientific rigour, to speed up decision making.
- Reducing duplication of effort between UK REACH and chemicals regulations elsewhere (such as the EU). This will enable us to focus more resources on GB-specific risks.
- Implementing priorities that emerge from the Chemicals Strategy, for example on unintentional mixtures, large groups of chemicals and new regulatory approaches. This will ensure that UK REACH can address emerging issues effectively.
- Maximising join-up between UK REACH and other UK chemicals regimes – ensuring that the risks of chemicals are addressed holistically, consistently, and comprehensively.

This project will run alongside ongoing work to develop the UK REACH Alternative Transitional Registration model and the Chemicals Strategy. We will work closely with both projects to develop synergies and we will be guided by the principles and priorities that emerge from the Chemicals Strategy as it develops, and we will join-up on engagement when suitable.

For more information or to get involved, please contact: ImproveUKREACH@defra.gov.uk.

3.4. Additions to the Authorisation List

The UK Agency has provided its final recommendation of priority substances to be included in the Authorisation List (Annex 14 – the list of substances subject to authorisation). See Section 4.5 for details on the UK Agency recommendation. Defra's Secretary of State and the Scottish and Welsh Ministers will decide whether to include these substances in the Authorisation List. Defra, Scottish Government and Welsh Government has launched a joint Call for Evidence to inform this decision.

3.5. Decision-making on Applications for Authorisation

Defra has received two final UK authorisation application opinions from the UK Agency. Defra's Secretary of State will make decisions on whether to grant these applications. Consent from the Scottish ministers and Welsh ministers is required for decisions where the matter relates to devolved competence.

Defra's ministers have made decisions, with consent from the Scottish and Welsh ministers, on 8 transitional applications for authorisation. These applications were from GB-based companies for which ECHA had adopted a final opinion, but the European Commission had not made a final decision before the end of transition period. Details of these applications and the decisions made are available on GOV.UK.

3.6. UK REACH Work Programme

Over the past few weeks, Defra has held workshops with stakeholders to review the process used for prioritisation of substances to be addressed under the UK REACH Work Programme. Overall, stakeholders were satisfied with the level of engagement and input they had, so we will follow a similar process this year, and look to widen the scope to produce a multi-annual plan. Stakeholders are invited to submit proposals for substances or groups of substances which they would like to see addressed under future UK REACH Work Programmes, to REACHworkprogramme@defra.gov.uk.

4. UK REACH – Update from the UK Agency (HSE)

4.1. HSE 2022/23 UK REACH Work Programme

The HSE 2022/23 UK REACH Work Programme was published on the HSE website in June 2022. This outlines operational work planned for 2022/23. **The rationale for this prioritisation was published by Defra on 30 June.**

Additionally, HSE has published the UK REACH Consolidated Report, which outlines the relevant activities for the last calendar year of UK REACH operation.

4.2. UK REACH Independent Scientific Expert Pool

The UK REACH Independent Scientific Expert Pool (RISEP) appointed 36 experts in June 2021. The RISEP pool is operational, and it has been used to provide scientific advice as part of Challenge Panels on two applications for authorisation - AFA001-01 and AFA002-01.

In addition, the RISEP pool will be used for the 2 Challenge panels in July, to discuss and provide advice on the restriction proposals on substances in tattoo inks and lead in ammunition (see section 4.4 below).

4.3. UK Agency Accredited Stakeholders

The UK Agency (HSE) opened its invitation to stakeholders to apply for Accredited Stakeholder Organisation (ASO) status in April 2021 for those interested in closer cooperation in the UK REACH processes, authorisation and restriction; so far **52 organisations have been granted Accredited Stakeholder status.**

There is no closing date for the ASO process and stakeholders can apply at any time. Details on how to apply, including an information pack and application form, can be found on the Get involved in UK REACH page.

4.4. UK REACH Restriction Proposals

There are two UK REACH restriction proposals out for consultation closing on 6 November 2022.

There are 2 Challenge Panel meetings related to the Lead in Ammunition Restriction and the Tattoo Inks Restriction that are currently under Public Consultation. These 1-day meetings will take place in July and will be the first in several such meetings that will be take place related to these 2 restriction proposals. ASOs with relevant interests have been invited to attend remotely.

4.5. Draft recommendation to the Authorisation List

In line with its role as the Agency for UK REACH and in the 2021/22 Work Programme, HSE has produced a recommendation of substances for inclusion in Annex 14. Defra has issued two Calls for Evidence on the proposed two substances (Dicyclohexyl phthalate and Disodium octaborate), closing on 12 August 2022.

4.6. New applications for authorisation

HSE received 3 applications for authorisation in October-November 2021. Consultations on alternatives were held earlier this year. While these consultations are closed, details for each can still be found on the HSE website:

- Reference: AFA005-01
- Reference: AFA006-01
- Reference: AFA007-01

The next steps for each of these 3 substances will be a RISEP Challenge panel on 13 September (AFA005 & AFA007) and 1 November (AFA006).

HSE has received a further 13 applications in May-June 2022, prior to the latest application date under the EU exit transitional arrangements. HSE expects to start to consult on alternatives for each of these substances in the coming weeks and months. The consultations will be hosted on the HSE website.

If you would like to receive an alert to advise when the consultation has gone live you can sign-up to HSE's e-bulletin – select the REACH option.

4.7. Restrictions and Regulatory Management Options Analysis (RMOA)

Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) RMOA

The PFAS RMOA call for evidence closed in January 2022, and HSE have been working with the Environment Agency to finalise this RMOA. HSE aim to publish the RMOA later this year.

5. International Chemicals: Multilateral Environmental Agreements (MEAs)

The face-to-face segment of the Basel-Rotterdam-Stockholm (BRS) Triple Conference of the Parties (COP) took place from the 6th –17th June.

5.1. Basel Convention –Transboundary Movements of Hazardous Wastes

The most significant outcome of the Basel COP was the agreement to amend the Convention to make **all exports of waste electrical and electronic equipment (WEEE) subject to the prior informed consent (PIC) procedure**. This means that all WEEE, not just that classed as hazardous, will only be exported if the destination country gives consent. This will better protect vulnerable countries from unwanted imports, reducing the human health and environmental hazards stemming from undocumented and potentially mis-managed e-waste. Basel Parties also agreed to adopt several technical guidelines, including on POPs wastes, incineration on land, specially engineered landfill, and mercury wastes. Work on updating the important technical guidelines on plastic waste (on which the UK is a co-lead country) will continue, with the intention that they will be adopted at the next COP in May 2023.

5.2. Rotterdam Convention – Prior Informed Consent (PIC)

Decabromodiphenyl ether (DecaBDE) and Perfluorooctanoic acid (PFOA), both a priority for the UK, were added to Annex III of the Convention. Consensus was not reached on the five chemicals that have been proposed for listing on multiple occasions (acetochlor, paraquat, chrysotile asbestos, fenthion and carbosulfan – all, except asbestos, are pesticides). Reasons for not listing were various, with some countries arguing that listing these could have the inadvertent consequences of creating barriers to trade or reducing the availability of certain substances which, due to a lack of alternatives, can negatively impact crop protection. The UK also co-sponsored a proposal outlining the work programme for the newly established Rotterdam Compliance Committee. This will allow the Committee to begin work immediately to support countries in implementing their obligations under the Convention.

5.3. Stockholm Convention – Persistent Organic Pollutants (POPs)

The UN Stockholm Convention on POPs agrees global bans of substances that fulfil the POPs criteria and requires all stockpiles and waste containing POPs to be identified and disposed of so that the POPs are destroyed or irreversibly transformed.

Stockholm Convention COP

The most significant outcome of the Stockholm Convention was agreement for **perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds to be listed in Annex A of the convention (for elimination) without exemptions.**

Additionally, the UK proposed a Low POP Content waste limit for a specific application, PFOA in Aqueous fire-fighting film forming foams (0.025 mg/kg). While the limit was not agreed, there was a lot of support for further discussion via a small intersessional working group (SIWG) and the suggested limit remains in square brackets (i.e., neither accepted nor rejected). Dicofol waste limits were agreed at 50 mg/kg. Limits for other POPs were discussed, without agreement, and will be further reviewed in working groups throughout the year, and at COP11 in May 2023. We'll be working with EA and other stakeholders to evaluate the UK implications of limits likely to be proposed and/or negotiated at COP11.

Immediate follow-up actions for parties include: any requests for exemptions for decaBDE and SCCPs should be submitted to the Stockholm Convention Secretariat by 31st August 2022; any information to justify need for decaBDE exemption should be submitted to the Secretariat by 31st August 2022; any information on the composition of chlorinated paraffins C10-C13 should be provided to the Stockholm Convention Secretariat by 31st August 2022. **Should you wish to contribute to any of the above actions, please contact POPS@defra.gov.uk.**

UK National Implementation Plan (NIP)

The UK NIP was updated to reflect the additions of decabromodiphenyl ether (decaBDE) and short chained chlorinated paraffins (SCCPs) to the Stockholm Convention in 2017. The updated NIP was submitted to the Secretariat of the Stockholm Convention in June 2022, to coincide with the BRS COP. The consultation response was also published in June.

POPs exemption review – Request for information

Defra is currently undertaking a review of whether certain POPs, controlled by the Stockholm Convention, are still being manufactured and/or used in the UK (under currently available exemptions for specific products and industrial processes).

The UK POPs regulations have control measures in place for the manufacture, use, and placing on the market of all POPs listed in the Stockholm Convention. These POPs are either prohibited or restricted, including when in mixtures or articles, though there are some allowed exemptions from these control measures within certain products or industrial processes.

Where use of certain POPs is permitted via specific exemptions, these exemptions are written into law and can be time limited. While use of these exemptions is permitted, it is the view of

the Stockholm Convention that reliance on these exemptions should be reduced, and suitable alternative chemicals found. Exemptions will only be retained in law if there is a justification for their continued use.

As part of a review, Defra are contacting organisations known to have registered use of the exemptions. **Additionally, Defra are offering an opportunity for industry stakeholders to help us understand how current POPs exemptions are being used in the UK**. This information will help assess the continued need for any specific exemptions moving forward.

The specific POPs being reviewed are:

- Decabromodiphenyl ether (decaBDE)
- Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds
- Perfluorooctane sulfonic acid, its salts, and its derivatives, (PFOS)
- Short chain chlorinated paraffins (SCCPs)

A full list of exempted uses, and information on how to respond to the review, can be found at: Review of statutory exemptions for permitted uses of persistent organic pollutants (POPs) - GOV.UK.

The deadline to respond is 12 August 2022.

5.4. Minamata Convention – Mercury

Following decisions agreed at the Minamata COP earlier this year, Defra is working on the policy analysis and implementation required to ensure the UK prohibits the use, import and export of the newly listed mercury-added products by 2025. We are also identifying the UK's policy priorities for the Minamata Convention and, if appropriate, will be submitting information on mercury management and other mercury-added products.

The fifth meeting of the Minamata COP will be held from 30 October to 3 November 2023.

6. International Chemicals: Voluntary international initiatives

6.1. Beyond 2020 framework on chemicals and waste

Following a hiatus due to Covid, in February 2022, the Strategic Approach to International Chemicals Management (SAICM) Secretariat released a roadmap document, setting out a plan to progress negotiations of a new beyond 2020 instrument. That roadmap has seen a series of regional meetings taking place through May – July 2022, with the next round of in-person negotiations, the fourth intersessional process, (IP4) taking place from 29 August - 2 September 2022 in Bucharest, Romania.

Following the retirement of the previous co-chair of the process, the UK's Dr Kay Williams, of Defra, has been nominated as interim co-chair, alongside a colleague from Uruguay, pending agreement from stakeholders at IP4. This will be followed by an in-person fifth meeting of the International Conference on Chemicals Management (ICCM5) in the Autumn of 2023 in Bonn, Germany, where the new instrument should be adopted.

Discussions at IP4 and ICCM5 will negotiate and agree the content of the Beyond 2020 framework, including measurables such as targets and indicators, as well as an approach to financing and resource mobilisation. Other areas for agreement include governance and mechanisms to aid implementation, as well as determining an approach through which issues which warrant global policy attention (known as 'issues of concern') are identified. Ensuring that the new framework can retain SAICM's unique strength for convening different stakeholders – government, industry, academia, NGOs, and intergovernmental organisations – in the pursuit of practical means of improving global chemicals management will be crucial.

6.2. Science-Policy Panel (SPP)

In March 2022, a resolution at the United Nations Environment Assembly (UNEA) 5.2 was passed to establish an independent, intergovernmental science-policy panel (SPP) **to further contribute towards the sound management of chemicals and waste, and to prevent pollution.** The intention is that the panel will be of similar stature to the Intergovernmental Panel on Climate Change (IPCC) and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) increasing the public and policy profile of chemicals and pollution.

The resolution states that the panel will serve several key functions, including horizon scanning and undertaking assessments together with identifying potential evidence-based options for solutions, and providing up to date information, identifying gaps in research and facilitating information sharing. The resolution also calls for the creation of an open-ended working group (OEWG) to prepare proposals for this panel by the end of 2024.

The first of these OEWG meetings is scheduled for October 2022 and will likely focus on procedural or governance issues. However, there will also be much discussion on defining the scope for such a panel and how it will interact with and aid other agreements, instruments, and

organisations. There will likely also be discussion on the issues countries feel should be prioritised for assessment of the panel once it is established, to determine the first work programme of the SPP in 2025.

6.3. Partnership for the Assessment of Risk from Chemicals (PARC)

PARC is a research and innovation programme under Horizon Europe to support EU and national risk assessment and risk management bodies with new data, knowledge, methods, networks, and skills to address current, emerging, and novel chemical safety challenges.

Following a delay in the formal association process, the UK will participate in PARC as a non-associated country. Successful UK applicants to Horizon Europe will be able to access replacement funding through the UKRI's Horizon Europe funding guarantee. Details regarding the scope of the funding guarantee are available on the UKRI website.

7. The OECD's Environment, Health and Safety (EHS) Programme

The Organisation for Economic Co-operation and Development's (OECD) EHS programme covers the safe use of chemicals, nanomaterials, pesticides, biocides, and products of modern biotechnology. It aims to protect health and the environment, while avoiding duplication of effort, ensuring that efficiencies are made and barriers to trade avoided.

New Approach Methodologies bring new testing methods into the international arena with the aim of reducing the number of animals being used within testing, whilst still protecting human and environmental health. The UK is an active participant within these programmes of work.

Streamlining in 2021 brought responsibility for the EHS programme under the Chemicals Committee (renamed as the "Chemicals and Biotechnology Committee"), which now reports directly to the OECD Council. Its mandate remains the same, although with work growing in Risk Management, a new working party has been developed to cover this area. This will bring together a comprehensive list of working programmes including hazard and exposure assessment, nanomaterials, pesticides, biocides, chemical accidents, pollutant release, PFAS, sustainable chemistry, and economics, as well as the Test Guidelines Programme (TGP).

Face-to-face meetings are now resuming with most meetings offering hybrid facilities. Defra continues to have oversight of the EHS programme, co-ordinating collective input from across UK government (and external stakeholders).

The next meeting of the Chemicals and Biotechnology Committee (CBC) will be held in November 2022 and will be represented by Defra. As well as participating as an OECD member country, the UK now chairs the CBC through Dr Kay Williams of Defra.

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