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Practical information on trade post Brexit¹

FEICA, the Association of the European Adhesive & Sealant Industry, is a multinational association representing the European adhesive and sealant industry. Today's membership stands at 15 National Association Members, 25 Direct Company Members and 19 Affiliate Company Members. The European market for adhesives and sealants is currently worth more than 17 billion euros. With the support of its national associations and several direct and affiliated members, FEICA coordinates, represents and advocates the common interests of our industry throughout Europe. In this regard, FEICA works with all relevant stakeholders to create a mutually beneficial economic and legislative environment.

Background

The United Kingdom withdrew from the European Union on 31 January 2020. The transition period provided for in the Withdrawal Agreement applies until 31 December 2020. During the transition period, EU law continues to apply to and in the UK.

Once the transition period is over, Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) and Regulation (EC) No 1272/2008 on the Classification, Labelling and Packaging of substances and mixtures (CLP) will no longer apply in the UK.

This guidance aims to supporting adhesives and sealants companies in preparing for the potential effects of Brexit.^{2,3,4}

Potential effects Brexit may have on REACH compliance

Brexit will have important regulatory implications for companies both in the UK and in the EU27/EEA countries due to the highly interconnected nature of adhesives and sealants supply chains.

As things stand now (at time of writing), REACH will stop applying to the UK from 1 January 2021.

UK businesses will become "non-EU entities" under EU REACH unless a different arrangement is agreed as an outcome of the on-going Brexit negotiations.

¹ This document is for general guidance and cannot be considered as legal advice.

² Brexit may affect other areas of regulation such as BPR, PIC, tariffs, IPR (Trademarks), Rules of Origin, Incoterms, etc.

³ The advice provided in this document assumes that the UK would be leaving EU-REACH at the end of the transition period with no agreement in place on future EU/UK cooperation on chemicals.

⁴ This guidance does not address any potential deal between the UK and the EU.

The UK Government will convert REACH into UK law. UK REACH (the UK's independent chemicals regulatory framework) will begin on 1 January 2021.

Anyone placing chemicals on the UK and the EU will as such require to follow UK REACH and EU REACH rules.

Impact on downstream users

Many EU27/EEA and UK based downstream users are currently relying on the more than 23,000 substances registered under EU-REACH by their upstream supply chain.

As of 1 January 2021, EU27 and UK downstream users may become importers under both EU as well as UK-REACH and will need to complete their own registration or rely on their third country suppliers to appoint an Only Representative (OR).

As no import into the EU27/EEA can take place until registration of the substance is complete (which can take months), this situation creates the risk of losing the supply of chemicals, requiring registration under REACH, and is likely to impact industrial value chains.

As of 1 January 2021, EU27/EEA sales to the UK will have to comply with the relevant UK legislation (UK-REACH) under extremely tight and challenging timescales. To ensure the continued import of substances for several months, a transition for registration is envisaged if substances to be registered under UK-REACH are notified. (At the moment, no equivalent notification scheme is foreseen on the EU side).

Complex value chains supplying chemical substances and mixtures from the EU to the UK (and vice versa) will be jeopardised, with decisions taking place at each level of the value chain as to whether or not the efforts to meet duplicative compliance obligations are justified.

Beyond registrations, similar disruptions are expected for existing REACH authorisation holders and their related supply chains (e.g. component manufacturers, chemical formulators) who will no longer be able to rely upon authorisations granted to UK based companies.

Practical considerations to ensure the continuity of your business in the EU

Identify substances/mixtures only registered by UK legal entities

Identify your role in the supply chain: where and how you do business?

You should check the list of substances that are only registered by UK legal entities, as [published on the ECHA website](#).

Imports into the EU will continue to be subject to EU-REACH. Once the UK leaves the EU-REACH regime, EU27/EEA businesses relying on REACH registrations from UK suppliers will become importers under EU-REACH and in this case are subject to registration requirements, unless they can purchase the substance from suppliers in the EU27/EEA who have a REACH registration or are covered by EU27/EEA-based ORs appointed from UK companies.

- Check the list of your actual suppliers and approved suppliers of your substances and mixtures.
- Identify substances and mixtures that are sourced from UK suppliers through an inventory.

- Please bear in mind that registrations are per legal entity, not per company.
- Check whether UK suppliers plan to appoint an EU27/EEA legal entity that will act as EU27/EEA based OR to ensure continued supply in the EU27/EEA or if there is, or will be, another EU27/EEA importer or manufacturer that you can source from.
- If you are yourself already importing a substance and at the same time you have a registration under your company name, you can continue to be supplied from the UK source as you can be covered by your own registration. Your dossier would need to be updated in due course once the UK leaves EU-REACH to indicate the additional volume being imported in the dossier. Please be mindful that higher tonnage bands may be reached and further testing required as a consequence.
- If there are other suppliers in the EU27/EEA countries, or other non-EU27/EEA suppliers covered by an OR in the EU27/EEA, they may be able to supply you. If they are not approved yet by your company, you may have to initiate the process of approval of a new supplier, which may be rather cumbersome and time consuming in some cases.
- If the other options are not available or you are not sure, you have to reflect on whether registering substances on their own or in mixtures as EU27/EEA importer may be a way forward (if import into the EU27/EEA reaches 1 tonne or more per year). A registration as importer would allow you to import from various non-EU27/EEA sources if the substance is the same and if allowed by your quality system and your requirements for approving new suppliers. However, the EU27/EEA importer can only start importing once ECHA has confirmed the completeness of the registration, or three weeks after the submission date if there is no indication to the contrary from ECHA.
- Please remember that in the case of mixtures, an EU27/EEA supplier of a mixture may also be dependent on a UK supplier for a substance or for a mixture in a mixture.
- If your supplier of a mixture can confirm to you that their suppliers of the substances used for the mixture are situated in the EU27/EEA then no problems are expected. In all other cases there may be a risk of potential supply chain disruption if no action is taken in future.
- Substances in stock, registered by the manufacturer/importer/Only Representative located in the UK, placed on the market of the EU27/EEA before the transition period ends, can continue to be placed on the EU27/EEA market and used afterwards. However, any consignment of a substance imported into the EU27/EEA market following the end of the transition has to be registered in accordance with the EU rules, i.e. by a registrant/Only Representative established in the EU27/EEA.

Implications of a future UK REACH for UK and EU27/EEA companies

If your company sells chemical products in the UK, please take into consideration that imports into the UK from the EU27/EEA will be subject to UK legislation.

In the absence of a specific agreement between the EU and the UK on REACH, the following actions are expected to arise and should be considered as a result of UK-REACH starting to apply to the UK.

Identify substances/mixtures that you are importing into the UK from EU manufacturers

Identify all products that are exported to the UK market.

- UK companies (currently downstream users) that source products from EU27/EEA suppliers will become UK importers under UK-REACH and may be subject to UK-REACH registration

obligations. A notification within 300 days from 1 January 2021 (i.e. by 27 October 2021) is expected to be required as an interim arrangement, with full registration expected within 2, 4 or 6 years of 28 October 2021, depending on tonnage band (see Fig.1).

- UK-based ORs that will be appointed by EU27/EEA suppliers will be able to make notifications for imports sourced by existing UK downstream users and distributors. If the notification is completed by an OR within the proposed 300 days from 1 January 2021 (i.e. by 27 October 2021), the downstream user or distributor would not need to notify.

Deadline Post 28 October 2021	Tonnage	Hazardous Property
27 October 2023	1000 tonnes or more per year	<ul style="list-style-type: none"> • Carcinogenic, mutagenic or toxic for reproduction (CMRs) - 1 tonne or more per year. • Very toxic to aquatic organisms (acute or chronic) - 100 tonnes or more per year. • Candidate list substances (as at 31 December 2020)
27 October 2025	100 tonnes or more per year	<ul style="list-style-type: none"> • Candidate list substances (as at 27 October 2023)
27 October 2027	1 tonne or more per year	

Fig 1. Proposed tonnage band deadlines under UK-REACH (subject to scrutiny by parliament and the devolved administrations).

Potential effects Brexit may have on CLP compliance

From 1 January 2021, companies placing chemicals (substances and mixtures) on the UK market will have to comply with the UK CLP Regulation.

UK mandatory classification and labelling (UK MCL) will replace the EU harmonised classification and labelling system in the UK. UK-based businesses will be required to notify the UK CLP Agency of the classification and labelling of the substances/mixtures they place on the UK market, where they meet the criteria for notification.⁵ Substances must be classified and labelled, where required, in accordance with UK MCL and with the entries in the UK MCL list hosted and managed by the UK CLP Agency.

Downstream users and distributors of substances/mixtures supplied from the EU/ European Economic Area (EEA)

UK based downstream users or distributors will become importers after the end of the transition period and therefore, responsible for the classification, labelling and packaging of chemicals imported into the UK.

The main requirements regarding the classification, labelling and packaging of chemicals will remain the same:

- Substances and mixtures should be classified, i.e. any hazardous properties must be identified
- Substances and mixtures must be labelled to reflect their hazard classification

⁵ Further information is provided in the scenario table (PDF)- Portable Document Format available at: <https://www.hse.gov.uk/brexit/clp-scenario-table.pdf>

- Substances and mixtures placed on the UK market must still be safely and securely packaged. Requirements for child resistant closures and tactile warning devices will remain in place.
- All suppliers based in Great Britain will continue to be responsible for identifying, examining and evaluating available scientific and information on substances and mixtures relating to possible physical, health or environmental hazardous properties of chemicals.

The UK CLP Regulation, as retained EU law, will continue to adopt the United Nations Globally Harmonized System of classification and labelling of chemicals (UN GHS) in a similar way to the EU CLP Regulation.

Further information

Further information is available at:

ECHA

<https://echa.europa.eu/uk-withdrawal-from-the-eu>

European Commission's webpage

https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership_en

UK Government

<https://www.gov.uk/transition>

<https://www.gov.uk/government/publications/our-approach-to-the-future-relationship-with-the-eu>

<https://www.hse.gov.uk/brexit/index.htm>

Industry positions and guidance (CIA/Cefic)

<https://cefic.org/policy-matters/industrial-policy/brexit/>

<https://www.cia.org.uk/>

<https://www.cia.org.uk/reachready/> (FAQs and Brexit navigator)

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