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Rt Hon Philip Dunne MP
Chair of the Environmental Audit Committee
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Dear Philip,

New Chemicals Strategy and the future of chemicals regulation

Thank you for your letter asking about our plans for the future of chemicals regulation in the UK and continuing development of the Chemicals Strategy. I welcome this opportunity to provide an update to the Committee.

As you point out in your letter, the department is now playing an integral role in the response to COVID-19, with Defra staff being moved into new roles to support this work. However, I can assure you that work to prepare for the end of the Transition Period has continued to be treated as a priority, with work to prepare for UK REACH remaining on track. We are continuing to keep stakeholders informed of progress and hear their views as we take this work forward and are grateful to them for continuing to engage with us in the current difficult circumstances.

UK REACH

Based on our commitment to having control of our own laws, the UK will establish its own independent chemicals regulatory framework, UK REACH, from 1 January 2021. This, combined with our position on not remaining within the jurisdiction of the European Courts of Justice (ECJ), means that we are not seeking associate membership of the European Chemicals Agency (ECHA) and participation in EU REACH. While the transition to UK REACH will take some adjustment, we believe that the benefits of having control of our own laws outweigh the costs. Now we have left the EU, the decisions we make will be in line with what is best for the UK and the environment. We will take decisions based on robust science and the best available evidence, including looking at approaches taken by other chemicals regimes across the world.

We have already brought REACH into UK law, and made preparations for the systems and capacity needed to ensure the effective management and control of chemicals. UK REACH will retain the principles and fundamental approach of the EU REACH

system, with its aims of ensuring a high level of protection of human health and the environment, as well as enhancing innovation and competitiveness. We have included provisions in the Environment Bill to allow us to amend REACH regulation in future, to ensure our chemicals management remains fully up to date. Any proposed amendments by the Secretary of State are subject to consultation, the consent of the devolved administrations (in respect of devolved matters) and to the affirmative procedure, ensuring a full debate in Parliament.

These provisions include the “protected provisions” you ask about in your letter. These 23 protected provisions have been carefully selected to preserve the “what” of the aims and principles of REACH, but to avoid freezing the detailed “how” it operates. A full list of the provisions can be found in Schedule 19 of the Environment Bill, but they include: the aim and scope of the REACH Regulation; the principle of “no data, no market” and animal testing as a last resort.

Your letter refers to a range of concerns about the preparations we have been making for the transition to UK REACH, and issues different business groups have raised about the impact of EU exit on the chemicals sector and regulation in the UK.

Before I address those, I want to be clear that all the preparations we made for the possibility of a no deal exit mean that we are well placed to be ready with our own independent regulatory regime by the end of the transition period. Our focus now is to build on what we have delivered already, taking the opportunity to develop and refine the systems and processes we are putting in place in preparation for UK REACH coming into force. This includes enhancing the current functionality of our Comply with UK REACH IT system; and starting to develop our own priorities for regulatory activity under UK REACH putting in place the structures and framework needed to implement them. We are also carrying out a comprehensive review of our previous guidance for businesses so they have what they need to be ready for UK REACH. Delivering all this work is a priority and I have made sure we continue to have the resources needed to deliver it.

We want to keep the transition to UK REACH as simple and straightforward as possible, minimising the burdens and costs for the industry. We will not diverge for the sake of it and are avoiding change for change’s sake. This lies at the heart of all we are doing to put UK REACH in place. For example, in building the Comply with UK REACH IT system, we have made sure it will work very much like the ECHA owned REACH-IT, including the same software requirements and many of the processes that businesses have been using and understand.

Access to Data

The timescales we have put in place for the phased submission of data are to support industry through the transition. However, we recognise that businesses may find it difficult to obtain the necessary data within the two-year time period, so these time frames are being kept under active review as we said we would do. That is why we

have been undertaking a focussed evidence gathering exercise to better understand costs associated with UK REACH and practical ideas to reduce the burdens on industry. This involves a number of key stakeholders including businesses of different sizes across the supply chain; trade associations and NGOs. We also received input on the fees structure and fee levels. We are now considering how to respond to the conclusions of this work.

Regulatory Capacity

The preparations we made for the possibility of a no deal exit mean that we are well placed to be ready for the end of the transition period. We will have a strong and effective regulator in place to operate UK REACH, building on existing expertise in the Health and Safety Executive (HSE) and the Environment Agency (EA). Both organisations have considerable experience, having worked on some of the most complex dossiers under EU REACH. Defra continues to provide extra resource to HSE and EA to prepare for the end of the Transition Period; and to work with them on plans for the phased scale up of resources to full operation. Further resource decisions will depend on the outcome of a future Spending Review.

Decision Making Process and Roles and Responsibilities

Under UK REACH, the HSE will operate as the UK Regulatory Agency, while certain decisions will be made by the Defra Secretary of State (with the consent of the Devolved Administrations, when the decision relates to a matter of devolved competence). This echoes the relationship between ECHA and the European Commission in terms of responsibilities and decision making.

In UK REACH, we will keep the same level of transparency and stakeholder engagement in the opinion forming processes as our EU equivalent and be able to draw from a pool of scientific experts as required, thus helping to ensure that the regulatory processes can be properly held to account. We have held a series of workshops with NGOs, industry representatives and scientists to obtain input on how the requirements for independent scientific advice within UK REACH should be applied. HSE will be setting up a pool of independent scientific advisers through an open application process. The EA is supporting the HSE with this process, to help ensure it attracts environmentally qualified candidates as well. Candidates will be sifted against competence and eligibility criteria and will help the Agency develop its opinions on applications for authorisation and restrictions.

The approach in UK REACH to ensure sufficient transparency of scientific discussions in the UK will mirror ECHA's approach to appointing accredited stakeholder organisations to observe ECHA Committee meetings. HSE will publish an open call for regular and occasional observers, sifting applicants against eligibility criteria based on those used by ECHA.

As we said in our previous response, there is no statutory role for external stakeholders and committees in the substance evaluation process, as is also the case in the current

EU REACH system. In the past, the EA has consulted the Hazardous Substances Advisory Committee (HSAC) for an independent view on a handful of more complex environmental dossiers before formal submission to ECHA. It remains the case that HSE and EA will be free to consult with experts with specific scientific expertise, such as the Committee on Toxicity (CoT) and HSAC, on issues relevant to any part of UK REACH. We will consider how this consultation can be used as part of the work of the UK Agency, whilst also ensuring we can demonstrate transparency and independence.

Our previous response also mentioned the role that members from HSAC and CoT could play in other aspects of the UK REACH process such as assisting the Agency as independent experts when forming opinions on applications for authorisations and restrictions. We recognise we need to make use of the scientific and technical expertise in the UK, using this in a proportionate way so we can ensure necessary peer review by experts that is not compromised by previous involvement in earlier processes in UK REACH.

Negotiations with the EU

In February, the Government published our approach to negotiating our future relationship with the EU. That includes a proposal for a chemicals annex as part of the EU Free Trade Agreement, to facilitate trade and encourage high levels of protection for the environment and human health. To support businesses to meet the separate regulatory requirements of the UK and EU markets, we aim to agree data and information sharing mechanisms with the EU, in line with the relevant provisions set out in UK and EU regulation and existing third-country mechanisms. On 19 May the Government published its draft Comprehensive Free Trade Agreement (CFTA) with the EU text. [This can be found here](#) along with the published CFTA annexe on Chemicals. Negotiations are ongoing and progress will be kept under review.

Northern Ireland Protocol

I am also able to provide you with an update on the protocol. On 20 May the Government published its [approach to implementing the Northern Ireland Protocol](#), as part of meeting in full its obligations under the Withdrawal Agreement with the European Union. This outlines how the protocol can be implemented in a pragmatic, proportionate way: one that protects the interests of the people and economy of Northern Ireland, recognises Northern Ireland's integral place in the United Kingdom and its internal market, provides appropriate protection for the EU Single Market, and respects the unique circumstances of Northern Ireland. The paper sets out four key commitments that will underpin the UK Government's approach to implementing the Protocol.

These will:

- Deliver unfettered access for NI producers to the whole of the UK market;
- Ensure there are no tariffs on goods remaining within the UK customs territory;
- Give effect to our obligations without the need for any new customs infrastructure in Northern Ireland; and
- Guarantee that NI businesses will benefit from the lower tariffs we deliver through our new Free Trade Agreements with third countries.

Further guidance will be provided for Northern Ireland traders placing certain highly regulated goods, including chemicals, on the Great Britain market.

Chemicals Strategy

In your letter you also raise the Committee's concern that our work on a new Chemicals Strategy has been temporarily paused due to the need to move resources to deal with the COVID-19 emergency work. We are committed to resuming it as soon as possible and are actively exploring how this can be resourced. Early engagement with other government departments and stakeholders from industry, NGOs and academia, including through the UK Chemical Stakeholder Forum, has given us a strong base on which to build. We have encouraged stakeholders to continue submitting ideas and evidence which will be used to further develop the strategy. When the work recommences publication of our Call for Evidence will be our next key milestone.

In summary, I want to stress that our overarching objective is to ensure the continued effective and safe management of chemicals to safeguard human health and the environment. We are working hard to secure our negotiation objectives for a Free Trade Agreement with the EU. Preparations for UK REACH continue at pace and we are looking to pick up our work towards a new Chemicals Strategy as soon as possible. We recognise the significant cost and burden to industry of complying with UK REACH and that is why we are looking seriously at whether there are steps we can take to help mitigate this. Continuing our active engagement with all those with an interest in chemicals will be key to helping us deliver what we want to achieve in the best interests of both business and the environment. The action we are taking at a domestic level will be underpinned by both our continuing commitments to international agreements concerning chemicals, including the Rotterdam, Basel, Stockholm and Minamata Conventions and by building on our global reputation for scientific expertise, continuing to provide a strong and influential voice on the world stage.

Yours sincerely,



REBECCA POW MP