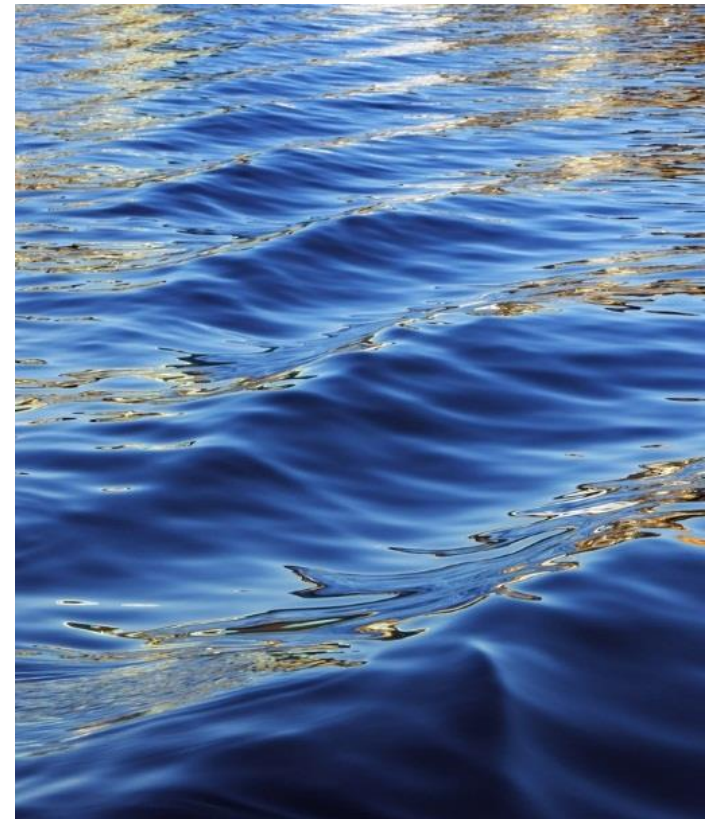




Post-Brexit options for UK chemicals law: Views from EU Member States (a Belgian contribution)

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Post-Brexit options for UK chemicals law: Views from a EU Member State

- The priorities for EU and HM Government
- Implementation of the 'Repeal Bill' (UK REACH)
- The EEA (2019) side
- More information in the written contribution.

The (present) priorities for EU and UK

- From EU
 - Preference for no-Brexit, but this is not an option for the current negotiation
 - Priority to maintain the Single Market and the current Customs Union
 - No clear information for alternative solution
 - But: clearly to have different and successive negotiations: one for the withdrawal (based on Article 50 of the TEU) and one for the future relation between the Union and UK (based on Article 207 or 218 of the TFEU). Transitional arrangements between the 2 are possible.
- From UK
 - Position expressed by the Prime Minister in her Lancaster House speech of 17 January and her letter to Donald Tusk of 29 March (notification of withdrawal)
 - No continuation of the Single Market nor of the EU Customs Union and several red tapes
 - No separate negotiation and rather an agreement on the future relations prior to the Brexit (but position moving) and possibilities to maintain a customs union between UK and EU during a transitional period
 - Need of a European Union (Withdrawal) Bill 2017-19 (hereafter called 'Repeal Bill')
 - Respect international commitments

'UK REACH'

Points of attention and priorities (1)

- On basis of Section 3 of the 'Repeal Bill' the REACH Regulation will form '*part of the domestic law on and after exit day*'.
- Main points of attention prior to Brexit:
 - Urgency to know what will be the future policy of UK on chemicals (> 25 year plan for environment).
 - Current registrations by ECHA:
 - Transfer of Registration from ECHA to The UK Agency of
 - Registrations made by UK producers and importers
 - Registration by Only Representative ? (could cover also the import of substance in EEA(2019)!
 - See at least with ECHA under which conditions such a transfer is possible (or not)
 - Interesting previous case: the transfer of registration by only representatives of Croatian manufacturers after the accession of that country.
 - Special case: the import of substances from the EEA(2019) into UK.
 - NB similar cases within the EU! (does not concern the UK REACH).
 - Institution building in UK
 - Establishment of a UK Agency Chemical (equivalent to ECHA)?
 - Establishment of the service that will carry over the tasks of the Commission in EU
 - Procedural aspects
 - Resources (human: recruitment and training; budget, building and equipment, including software)

'UK REACH'

Points of attention and priorities (2)

- Point of attention for the amendment of UK REACH Regulation. ('Deficiencies': implementation of section 7 of the EU (withdrawal) Bill 2017-19).
- Territoriality of the Regulation (UK)
- Roles taken over by British bodies + consultation and information
- References to other EU legislation (around 54 other legal texts): identify the corresponding new UK regulation. What shall be done if one of these EU legal texts is not included in the 'remain EU law'?
- [Other technical points: see written contribution (including authorisations)]
- **Some risks and challenges:** preference for a clearer approach than a better approach; Article 50 (3) of TEU: a safety net or a 'Damocles' sword'? No transitional arrangement before the UK REACH! (It must be operational from the Brexit Date); UK officials working for the EU institutions (including ECHA).

EEA (2019)

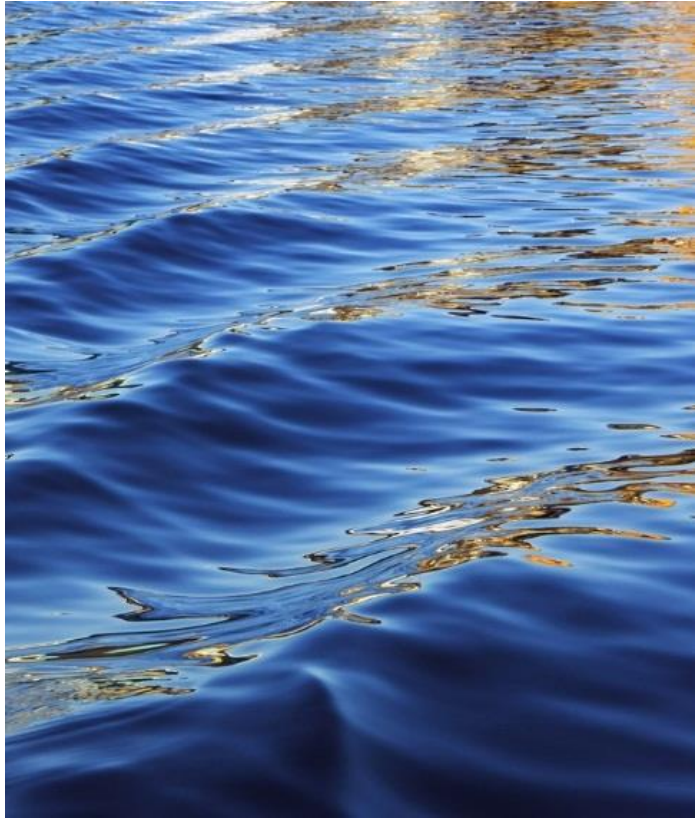
points of attention

- Transfer of Registrations (between legal entities):
 - Only representatives (British legal entities) for the import [Also] within EEA (2019) ?
 - Imports from third countries (with a former importer or only representative registrant) ?
 - Only representative of a British manufacturer
 - Importers from UK (with a former UK manufacturer registrant)
 - Manufacturer (transfer of the production, or splitting of production)

As for UK: to be examined with ECHA
- British lead registrants;
- Running authorisations for British enterprises (with downstream users in EEA (2019));
- Possible participation of British experts in RAC and SEAC (at least until the end of their mandate) [without prejudice of the result of the Negotiation];
- Files prepared by the British competent authorities not finalised [see also Article 137: transitional measures regarding restriction].

More information

- As the time was limited I presented only some aspects of my analysis.
- In my written contribution I cover the following aspects:
 - Detailed comments on my slides,
 - More detailed comments on the UK REACH Regulation,
 - Some comments on the different options of agreements with a special attention for the different sectors covered by the REACH Regulation.
- In that document (electronic version) there are many links to additional information that I found relevant.



Thank you for your attention

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