Post-Brexit options for the UK chemicals law:

Views from a former Head of REACH Helpdesk of an EU (2019) Member State

By Jean-Pierre FEYAERTS

Revised version of 1 October 2017

This document aims to further explain the oral presentation on the Views from EU Member States (a Belgian contribution) made on the 29 September during the fifth session of the Post-Brexit options for UK chemicals law and to present the own evaluation of the speaker on these issues. It is a pure voluntary contribution to the debate.

Disclaimer: The opinions and views expressed in this document represent my own understanding of the situation and different opinions I listen or read and may not be considered as a position of Belgian authorities.

Preface

Following the notification made by Theresa May on the 29 March 2017 (and the referendum of 23 June 2016) UK is engaged in an important process of revision of its legislation due to the intention to leave EU. From the date of Brexit the EU legislation will no more be applicable, on basis of Article 50 (3) of the EU Treaty.

It is unlikely now that a new agreement will be concluded before the 30 March 2019 on the future of the relations between EU and UK. At the maximum transitional measures will be adopted for the period between the Brexit date and the entry into force of one (or more) new agreement(s).

Of course, if the Council decides it unanimously, the Brexit date can be postponed (it can also be advanced by the withdrawal agreement but I do not think that may happen now). In my view also it is possible to decide in the withdrawal agreement to postpone the Brexit date (provided this agreement is concluded within the delay of Article 50). That could be helpful to adopt [additional] transitional measures. It is not however the purpose of this document to discuss this possibility.

The people of United Kingdom, by the referendum of 23 June expressed its majority willingness to leave the EU, whatever are their personal reasons. I do not think that everybody voting in favour of the Brexit had the same reasons. The referendum, however didn't questioned the population on the modalities of the exit. These latter were defined by the UK Government and, in particular expressed by the Prime minister in her Lancaster House speech of 14 January 2017. We find also that approach in the withdrawal notification of 29 March 2017.

If there was a certain willingness to leave EU in the United Kingdom, there was no such willingness on the EU side to see the United Kingdom leaving EU and this is not because UK is a net contributor to the EU budget.

By my studies at University I am basically an economist specialised in public economy. During these studies I discovered a very simple principle commonly used in the welfare economy called the Pareto efficiency. The latter has an important variation called the 'Kaldor-Hicks efficiency'. Though the optimum of Pareto and Kaldor-Hicks efficiency are normally used for policy that aim to improve the situation[1], that approach may also be followed for the Brexit.

Under these conditions, the minimum agreement for EU (that is not asking for the Brexit) is that it will stay (globally) at least in a situation that is not worse than in the absence of Brexit. If the HM Government does not understand this principle, I think it will be difficult to arrive to

[1] In my view the Brexit is not a win-win solution and even not a case were the situation of at least one party will improve (compared to the baseline situation). It is possible that the situation will improve compared to present but to a lower extend than in the absence of the Brexit. It is also possible that within one party (in particular in UK) the situation of a part of the population will improve but without a general benefit. It is also important to understand that the overall improvement of the situation of an individual is generally not expressed in money.

an agreement and this could lead to a 'lose-lose' solution by the absence of any agreement as foreseen by Article 50 (3) of the EU Treaty (Hard Brexit)[2].

Under complex situation it is not possible that any individual stay at least in a situation that does not worsen the situation of anybody and that some others improve their situation ('Pareto efficiency'). Under those conditions it is helpful to use the Kaldor-Hicks improvement under which the actors that will normally improve their situation will be ready to renounce to a part of their gains in order to compensate the losses of the losers. This very simple principle should be considered under the current negotiation. It includes discussions on the exit bill that UK will have to pay.

The current position of the British Government remains to leave both the Customs Union and the Single Market (and the EEA). In a recent partnership document of 15 August a door, at least, was opened to a possible transitional arrangement similar to the customs union. Anyway, this will not have an impact on the fact the EU legislation will no more be applicable in the UK from the date of exit under the current situation and this will lead to important gaps in the domestic legislation of UK[3].

For that reason the Government presented on the 13 July the draft of its European Union (Withdrawal) Bill 2017-19[4]. The Government estimates the number of regulations that should be retain in the UK legislation around 800 to 1000[5] from over 12.000 regulations in force (including amending regulations as well as delegated and implementing regulations).

The UK parliament developed many different studies. More in relation to my own competences I noticed:

- *The future of Chemicals Regulation after the EU Referendum* of the Environmental Audit Committee of the House of Commons;
- Brexit: environment and climate change of the House of Lords + Debate and answer from the Government
- *Brexit: trade in goods* of the House of Lords (discussed on the 18 July) as well as *Brexit: the options for trade* also published by the House of Lords;

[2] An overall lose-lose situation does not means that there are no winners, on the contrary, and on both sides. Furthermore, due to the present situation, whatever will be the final result, some persons and enterprises are benefiting of the situation and other are already loosing. In addition external factors exists. One should compare with a 'baseline' corresponding to the case of a majority of UK citizen would have vote in favour of the 'remain' solution. The concept is rather easy to understand but it is not possible to calculate precisely the differences. For example, It is clear that the exchange rate between the Euro and the Pound is influenced by the current situation and the so-called 'rational expectations', but, in the absence of the referendum, one would have seen surely also significant variations of the exchange rate. On the 31 December 2008 the value of the Euro was very close to the one of the Pound (0.97774). On the 31 August 2007 the rate was 0.67649.

[3] This question, as well as the one of transitional customs union like arrangement are analysed in the third chapter of that document.

[4] The Government preferred that approach rather than to make a deficiency gap analysis. Anyway, it is surely too late now to switch to such approach.

[5] See the factsheet 1. On the 24 January 2017 Defra indicates that 'Over 1100 core pieces of directly applicable EU legislation and national implementing legislation have been identified as Defra-owned'. However, according to a briefing note (Number 8079 of 1 September) of the House of Commons around 7000 pieces of EU legislation will be incorporated. This latter document can be downloaded from this page of the House of Commons.

- *Brexit: trade aspects*. Briefing paper number 7694 of the House of Commons.

This document is divided in 3 main chapters:

- The first one provide additional information on my presentation;
- The second analyses a little more in detail the question of the transposition of the REACH regulation into UK domestic regulation;
- The third one discuss the main possible options in relation to the chemicals sector and other sectors directly concerned by the REACH Regulation.

Before continuing, I want to make clear that, in my view, the best option for UK Chemicals industry and the other industrial sectors concerned by the REACH Regulation is to remain within EU but this was not the choice of the British citizen. By default, the second best option would be to remain in the Single Market (staying within the EEA, for instance) and to remain a member of the EU Customs Union. This is also the position of the EU Institutions. If this is not acceptable for UK, than it is important, also for the rest of the EU to examine the best possible alternatives, starting by the HM Government proposal to adopt a European Union (Withdrawal) Bill 2017-19, hereafter called 'Repeal Bill'.

Though the Government published recently several policy papers in the form of position papers[6] or in the form of future partnership papers, up to now (at the time this document was written) the publically available in formation remains quite limited. This is further discussed in Chapter 3.

In the rest of the document EU (2019) and EEA (2019) means, respectively the EU and the EEA in their composition after the Brexit[7] (and based on the current known positions in the case of EEA) whatever will be the actual Brexit Date (currently foreseen as 30 March 2019 at 00:00). It is quite common to speak about EU (27) to speak about the present 'other member states of the EU' besides UK. However it can be ambiguous as, between the accession of Romania and Bulgaria (2007) and the accession of Croatia (2013), EU had 27 member States.

When I will speak about the opinion of position of the rest of the EU (the current 27 Member States), I will however simply quote the EU.

In this document also I will focus on the REACH regulation as this is the one I have the best knowledge and experience but REACH may not be considered alone.

[6] See : https://www.gov.uk/government/collections/article-50-and-negotiations-with-the-eu
For the EU side both the Commission and the Council have dedicated web pages:
- Commission: https://ec.europa.eu/commission/brexit-negotiations_en
- Council: http://www.consilium.europa.eu/en/topics/brexit/

[7] And generally also countries that may join the EU after the Brexit date.

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Chapter 1: Background information on the presentation and further comments

Introduction

Environmental policy and the EEA approach

From an EU perspective, the future Environmental (and Health) British policy should continue the present overall EU strategy. We should seek common objectives but the means could be different. It corresponds to the objectives of the EU directives by opposition to the EU regulation (the best option being that UK remain an EU member State).

It is essential that **UK defines without delay** its future approach on Environment and Health strategies. I know that Defra is preparing the 25 year plan for the environment[8]. This latter

[8] It is mentioned in the letter of DR Th. Coffey MP to Lord Teverson of 16 April 2017 and during the debate of 23 March.

should of course include the safety of chemical products but it is important that the strategy is defined quickly as the clock is ticking and a lot has to be done before the Brexit date.

If we apply it to REACH, the EEA approach[9] is the best one in case of Brexit.

Under the EEA conditions there will be no direct impact[10] of the REACH Regulation on the chemical industries[11]. The UK will be in the same situation as Norway, Iceland and Liechtenstein. In particular nothing will be needed for the existing registrations, neither in EU nor in UK. However, in that case the Repeal Bill approach is not the right one: UK will need a domestic legislation on REACH similar to the one adopted by Norway[12].

A UK REACH regulation

Should the EEA approach (Single market) not be acceptable for UK then, indeed, it will be urgent to work on a UK REACH regulation based on the Repeal Bill. This later as two main aspects (for REACH and related regulations[13]) covered respectively by its sections 3 (technical transposition of the EU regulation) and 7 (adaptation to the UK domestic situation)[14].

As REACH is designed for a multi-countries situation, a lot of technical changes will be needed. This will be also the case for many other regulations. In addition there is a need to have a further reflection on what UK wants to do with that regulation, in particular on the establishment or not of a British Agency, on having its own restrictions or not and own risk management options for the substances of very high concern.

If UK wants to have its own autonomous policy (and not include the new restrictions and authorisations decided by the EU after the Brexit), inevitably this will create problems in the trade between UK and EU and will have impact on the strategies of the enterprises present in several countries (UK, EEA (2019) and third countries). In my view a simple mutual recognition agreement will not be sufficient[15].

> An alternative is to consider the Switzerland approach[16]. Though this country is not a member of the EEA and not participating in REACH, it tries to have a domestic regulation close to the EU legislation in order to have limited friction in the trade with EU.

[9] See Chapter 3 for further comments on 'EEA approach'.
[10] Without prejudice on trade impacts that may have another origin.
[11] REACH is not limited to the chemical sector but, for practical reason I will not always refer also to these other sectors (like metals, textiles …).
[12] See under Chapter 2 'Need of UK regulation'
[13] See Chapter 2 on the related legislation.
[14] For the international obligations, they are covered by section 8.
[15] I noticed however that, according to its press release of 21 August the CIA, on the basis of the position paper 'Continuity in the availability of goods for the EU and the UK', the approach of that document could be sufficient from the UK side, at least for what concerns the registrations (and authorisations granted to British legal entities).In a more recent interview made by Chemical Watch the federation '*urges UK government not to diverge from REACH*'. I leave the evaluation of that specific question to persons more expert that I in this area, but I have doubts.
[16] See further discussion on Switzerland in Chapter 3 under FTA agreement

Turkey is also not a member of the EEA but it has a Customs Union with the EU and is an applicant country to the EU. Therefore, recently it adopted its KKDIK[17]. The general approach of that national legislation is quite similar to the one of the EU but without a national Agency for chemical products.

It is not clear for me to which extend important changes to REACH as not having a national Agency, not to have an own strategy for restrictions and/or authorisation could be still compatible with section 7 of the Repeal Bill. Unfortunately it wouldn't be sufficient to simply delete the corresponding titles of REACH. To maintain the overall approach of REACH, in particular if UK wants to apply the restrictions adopted by the EU, specific new articles would be needed. It would be the same for authorisation where national authorisations would be needed (the EU REACH approach can be used) and specific provisions would be needed also.

If, in addition, UK would have other risks management options they would surely no more be compatible with the section 7 of the Repeal Bill.

As stated in the report of the Environmental Audit Committee of the House of Commons, "*establishing a full stand-alone system of chemicals regulation for the UK is likely to be expensive for both the taxpayers and for industry*".

The technical amendment to REACH are discussed further in Chapter 2.

In my presentation I stress some important issues for the EU Member States in the case UK adopts its own REACH regulation

Comments on the presentation

Slide 2: general presentation

As I prepared these written comments my oral presentation focus on the Repeal Bill in practice for both side.

Slide 3: The options for UK and the European Union (Withdrawal) Bill 2017-2017

The Present priorities for EU and UK

The priorities for EU and HM Government are presently quite different:

From the EU side, I suppose the no-withdrawal solution[18] remains the best option but it is not a subject for negotiation.

The official position is that UK should remain a member of both the Single Market (EEA) and of the Customs Union between the current Member States.

[17] To download the English version select KKDİK Yönetmeliği - İngilizce

[18] In principle, it would be to UK to ask to 'withdraw its withdrawal'. For more information one may read the study for the IMCO Committee of the European Parliament 'Legal implication of Brexit' which analyse 3 alternatives: Hard Brexit: WTO rules, EEA and Tailor-made arrangements for the different aspects relevant for IMCO (Customs Union, Internal Market Acquis for Goods and Services, Consumer Protection Law, Public Procurement). The question is discussed in section 2.1. (starting on page 17)

There is no clear indication on preferences for other forms. What is clear, however, is that the negotiation on the withdrawal (based on Article 50 of the TEU) and the negotiation on the future relations between EU and UK (based on Article 207 or 218 of the TFEU) are separate and subsequent. The second one may start when substantial progress will have taken place on the first phase (including, in particular the rights of the EU citizen after Brexit, the financial settlement ('Exit bill') and the situation in Northern Ireland). According to the guidelines '*an agreement on a future relation between the Union and the United Kingdom as such can only be finalised and concluded once the United Kingdom has become a third country*' (§5 on the web page). '*The negotiation may also seek to determine transitional arrangements (…) to provide for bridges towards the foreseeable framework for the future relationship*'

From the UK side[19], there is no question, up to now, to envisage that UK remain in the Single Market and in the EU Customs Union. In the latter case, however, UK is ready to speak about a transitional solution, according to its partnership paper 'Future customs arrangements'. The position paper on 'Northern Ireland and Ireland' refers to the first document.

As the Single Market (EEA) is not an option for UK presently, it is not covered by my oral presentation but it is further developed in Chapter 3.

On basis of Article 50 (3) (TEU), the EU legislation will no more be applicable in UK from the date of Brexit. If EU directives are transposed in UK domestic laws, this is not the case of EU Regulations. Therefore there is an obvious need to have new domestic laws to avoid important gaps. As clearly it wouldn't be possible to prepare and adopt so many pieces of legislations under the normal procedures, the Government presented on the 13 July its draft Repeal Bill. In addition the Government intend also to propose a Customs Bill as well as an Immigration Bill.[20] The Draft Bill first repeal the European Communities Act 1972. As a consequence all the EU regulations will ceased to be applicable in UK.

Two sections of the Repeal Bill are of particular interest for us: section 3 that allows the Minister to transpose EU regulations into UK domestic regulations and section 7 that allows the Minister to make technical adaptations that are needed.

The Government estimates between 800 and 1000 the number of EU regulations that should be transposed into UK domestic law[21]. I recognise that the way the selection will be made is not 100% clear for me. There is a Memorandum concerning the Delegated Powers in the Bill for the Delegated Powers and Regulatory Reform Committee.

[19] See the Lancaster House speech of Prime Minister of 17 January 2017, the Prime Minister letter to Donald Tusk of 29 March (notification article 50 also on https://www.gov.uk/government/speeches/prime-ministers-commons-statement-on-triggering-article-50)

[20] See Factsheet 1 : 'General' of the Repeal Bill under Other preparation. In total 7 bills related to the EU withdrawal should be proposed following the Queens speech of 21 June 2017 one should have, in addition to the 'Repeal Bill' a customs bill, a trade Bill, an immigration Bill, a fisheries Bill an agriculture Bill, a nuclear safeguards Bill and an international sanctions bill.

[21] In the report of the House of Lords 'Brexit: Environment and climate change' already mentioned, in paragraph 58 one speaks about 'more than 1,100 pieces of legislation for which it is [Defra] responsible'. See also Defra evidence and footnote 5.

It is possible to find the list of the EU legislation into force on EUR-Lex (Directory of European consolidated acts).

In my view it is essential that the Government clarifies how, from around 12,000 legal texts it will arrive to around 800 to 1000 UK regulations. Even if this question can be clarified around 5 regulation per working day should be written, modified on basis of clause 7 and possibly later on basis of clause 9! Furthermore the enterprises and administration should be ready to implement those regulation from the Brexit date despite of the fact that, most likely important information will arrive very late. Should some of those regulation be missing, I do not see possibilities to adopt further transitional arrangements until the new regulation will be published!

Slide 4: UK REACH: points of attention (1)

The Repeal Bill[22] is a unilateral legal text[23]. It allows however (Section or clause 9) to implement the withdrawal agreement (the latter may include transitional arrangement).

> I remind that its approach, in my view, is not appropriate if UK remains in the Single Market. In that latter case, UK should adopt a legislation closer to the Norwegian [24]one on REACH.

If UK leaves the EU, it does not means that the international obligations contracted by the EU (mixed agreements) will no more be applicable. The section 8 of the Repeal Bill covers this specific aspect. For what concerns REACH, international obligations include, among others the implementation plan adopted on 4 September 2002 at the Johannesburg World Summit on sustainable development or several conventions like the Stockholm and the Aarhus conventions.

There are probably three priorities:

- To have a clear view on the future policy on chemicals (after the Agreement on the future relations between EU and UK). This complex question is developed in Chapter 2 of this document.

- To explore with the Commission and/or ECHA the possibility to transfer some of registrations to UK (in principle de new UK Agency) or to give an access to the relevant registration so that a formal re-registration will not be necessary in UK. This could be done at no cost for enterprises or reduced costs (Presently, the fee Regulation (EC) 340/2008) foresees a fee of 1631 €[25] in the case of a change in the identity of the registrant involving a change in legal personality). Please note that one has to consider

[22] To follows the progresses in its discussion visit the following page of the Parliament.

[23] As it is autonomous it may be possible to make faster progresses with the risk to consider it to be sufficient, on the one side, or that, at the end of the negotiation (due to the size of the task) some part of the EU legislation should still to be made applicable (rather following the approach of the EEA). For more information on the different options I may recommend the Briefing of Internal Market and Consumer Protection 'The consequences of Brexit for the Customs Union and the Internal Market Acquis for Goods of Prof. Dr. Piet Eeckhout.
In addition, the Institute for Government published recently the document 'Frictionless trade? What Brexit means for cross border trade in goods'.

[24] The **French** version of the Norwegian legislation on REACH is embedded at the end of that document.

[25] With reduced fees for medium, small and micro enterprises of, respectively, 1060 €, 571 € and 82 €

both the cases of registrations made before the Brexit date and after the Brexit date with a possible particular case for the registrations made during an implementation period or a transitional period;

- To organise the British structure that will carry over current tasks of ECHA and of the European Commission.

Registration

Concerning the substances that should be registered in UK, in absence of a transfer from ECHA or of a full access to the ECHA register, this question is further analysed in the Chapter 2 of this Contribution.

The following transfer of registration should be examined: the registration made by UK importers and producers. A distinction will probably be needed between the case of substances that are put only on the UK market and the case of substances that are put on UK and EEA (2019) markets. The reason is that, in the second case, a registration has to remain within the EEA (2019) what is not necessary in the first case. If the substances are put on both markets the situation is similar to the current case of split of a registrant. Presently only one of the companies can benefit from the former registration. The second (or more) has to make a new registration. In the case of post-Brexit situation clearly two (or possibly more in special cases) different companies will have to be the holder of a registration (further examination under chapter 2).

An important part (around 40%) of the registrations made by only representatives are made by legal entities established in the UK. The transfer of registrations is needed if there are imports into UK. It is possible that, presently, there are Only Representatives established in UK for actual imports only in EEA (2019). In that case a transfer of the registration is already possible to another OR established in the EEA and it can be done before the Brexit Date.

Before the accession of Croatia, the Croatian manufacturers that were supplying the EEA needed a registration made by an Only Representative (or by the importers). After accession these companies became normal EU manufacturers. At that time ECHA found an ad hoc solution that is an interesting precedent[26]

The case of imports of substances from the EEA (2019) is more problematic. Clearly the registration made in the EEA has to remain. An additional registration is needed due to the Brexit by the UK Agency (or designated service). A copy of the information of the registration of the substance may be envisaged. Important to note is the volume of the imports in the UK. It is possible that the volume put on the UK market will fall under a lower band that the one of the current registration. This case may not be assimilated (unfortunately) to a simple transfer as a new legal enterprise has clearly to be registered. The question is if it may share the information already registered by the ECHA. Different cases can be envisaged. The

[26] See https://echa.europa.eu/documents/10162/13645/qa_croatian_regist_pre_en.pdf/b7eab702-f101-4fd0-9f13-de1a0dac4c29

simplest probably is when there is only one manufacturer within the EU that has a subsidiary in UK. (See further discussion under Chapter 2).

Structure

One may divide REACH in two parts: Title I to VIII that concern general and operational matters and title IX to XV that concern more organisational (including procedures as well as transitional[27]) and Final provisions). If it is important to follows very closely the EU REACH for the Title I to VIII[28], for the remaining title it is more important to follow the spirit and objectives while, like for directives, the means should be more adapted to the British situation and the EU legislative framework.

As the time until 29 March 2019 is very tight[29], Probably it will be better to start from a similar structure to the current REACH structure with the Competent authority that should +/- maintain its current role (within UK), however the establishment of a UK chemical Agency needs to be carefully examined (including on its timing) as it will be time and resources consuming. The same is valid for the implementation of the Title VII (Authorisation) and VIII (Restriction). Should UK prefer to have a more similar approach to Turkey and Switzerland than new articles will be needed in the UK REACH. Concerning the tasks of the European Commission, UK has to determine who will take them. Here also the size of the service would be quite different if UK does not implement (at least during a transitional period) Title VII and VIII of REACH as such[30].

In addition of the 3 bodies already mentioned, it seems appropriate to have committees similar to the RAC and the SEAC (in case of a complete transposition of REACH) as well as a helpdesk. Other committees (established by the REACH Regulation, by the Commission or by ECHA) could be envisaged but should be adapted to the specific situation of UK (single country vs 31 countries under the present REACH). It is the case of the forum (we have in Belgium as well a national forum) or the Board of Appeal.

The different procedures will need also a particular attention. Here also because everything will happen in the same country the procedural aspects must be adapted to the general administrative legislation of UK. The same is valid for the different consultations and the transmission of information and reports. Is this however compatible with the current draft of section (clause) 7 of the Repeal Bill, I leave that question to UK lawyers.

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[27] For REACH as such.

[28] For Title VII (Authorisation) and Title VIII (Restrictions), provided that in the framework of the overall environment and Health strategy UK wish to have its own list of substances added to Annex XIV and XVII.

[29] If we consider the different tasks and their sequences: Organisation, developing the human resources (considering the possibilities of repatriation of British civil servants working for EU institutions (including ECHA) and some other British citizen working presently in relation to the EU institution and the period they could come back. It may depend of the outcome of the negotiations on the freedom of workers), developing the skills (for new officials), finding the office + equipment (including computers and software/database); budget … For example if a transfer of registration between ECHA and the new Agency will be possible, the Agency should be sufficiently operational in order to manage this transfer etc.

[30] See also, in Chapter 2 the sub-section on Alternatives for authorisations and restrictions

Finally the questions related to the human resources is for me very important in order to have a structure fully operational from the Brexit Date.

For more details on the 'institution building', see Chapter 2.

Slide 5: UK REACH: points of attention (2)

The 'UK REACH' may not strictly follows the structure of the EU REACH as it is limited to one single country. There is no need to have representatives of the different region of UK like the different EU member States must be associated to the management of REACH. The legal and administrative framework is different as well as several traditions of consultations etc.

In order to have an efficient implementation of the Repeal Bill, it is advisable to create a database of the EU legislation (legislation into force + amendments and former acts) and their equivalent in the UK legislation (both existing legislation (in particular implementing EU directives) and new regulations created by the Repeal Bill). The reason is that in most EU regulations one finds references to other EU acts as they were in force at the time of the adoption of the regulation. Though regularly the regulations are consolidated in Eur-Lex, these not official consolidations does not update the references made to other EU acts. In the original version of REACH there were around 54 references made to other regulations, directives, decisions, recommendations etc. Since that time REACH was amended nearly 45 times (if you include also the amendment made by Decision No 25/2008 of the EEA OJ L 182 of 10.7.2008, p. 11). It will be essential to keep this database up to date as the references should reflect the situation of the EU legislation applicable immediately before the Brexit Date (and not based on the legislation into force[31]).

As not all the EU legislation will be transposed into UK legislation, solutions must be seek to the references made to EU acts that do not have an UK equivalent!

Authorisations will need also a special attention, at least during a transitional period:

Several Decisions taken prior the Brexit Date will be applicable after that date. They may concern UK enterprises having obtained this authorisation, UK downstream users of a substance covered by an authorisation. For the EEA (2019) side one will have to consider the downstream user of substances or mixtures supplied by UK manufacturer having an authorisation. I suppose that the renewal of an authorisation granted to a British manufacturer shall follow the UK REACH but maybe this requires a specific provision.

In addition of the authorisation already granted, it is possible that there will be demands 'in the pipeline' (arrived to ECHA before the Brexit Date but the final Decision is not yet adopted by the EU Commission).

[31] See, for instance, Regulation (EU) 2017/821 ('Conflict minerals').

Finally what will happened to the Annex XV reports under preparation related to authorisation (inclusion in Annex XIV)? We may have the same question for the restriction[32] procedure.

On the risks and challenges I already mentioned the risk to prefer now a clearer situation that to have, maybe, a better arrangement later. Once the UK REACH regulation will be ready, I do not think that it will be easily abandoned (in favour of an EEA-like solution for example). I may assume that enterprises also will prefer to work on that basis (but the 'UK REACH is far to be the sole factor for decision).

We assume that the Brexit Date will be the 29 March 2019. Even though the probability to decide on a change of that date is low, it creates an additional element of uncertainty.

If UK is unable to adopt the 'UK REACH' right in time, so that it will be operational from the Brexit date, I do not see possibilities to have additional transitional arrangements before it works[33]. This also may create uncertainties. My feeling is that 18 months is rather short[34] (but feasible). Finally, as I mentioned also already, on the possibilities to recruit experts for the UK REACH (and other regulations that will be managed by the same structure) there will be officials working for EU institutions (including ECHA) as well as some British experts working in close connexion with the EU institutions that may wish or be forced to come back to the UK (based on the new rules of free movement of workers). Most likely they will move rather late, just before the Brexit Date. That creates an additional constraint to the development of the human resource strategy.

Slide 6: EEA (2019): points of attention

General comments and transfers of registration

From the EEA side, we find similar questions but to be expressed differently. First, there is no need to have a new regulation or even to amend REACH itself (at least I didn't identify provisions that needs absolutely an amendment[35]).

The second key question is the transfer of registration (how to minimise the economic effect). As UK legal entities will no more be EU (EEA) entities, all the registrations belonging to a UK entities will need to be replaced by a registration belonging to an EEA (2019) legal entity with the exception of substances that will be put only on the UK market or substances manufactured in UK that will no more be sold on the EU market[36].

[32] From my reading of the repeal bill, the question of new substances added to Annex XIV or XVII that are not applicable on the Brexit Date may not be covered by this Bill. It should be covered by the Agreement between EU and UK or be adopted autonomously following the normal UK procedure to amend the legislation.

[33] Except if UK decides rapidly to remain a member of the EEA – at least temporarily and adopts a similar regulation to the Norwegian one.

[34] If the work start from the date of the adoption of the withdrawal Bill the time pressure could be excessive!

[35] Of course, it will depend also of the outcome of the Agreement between UK and EU. It does not means that nothing will be needed, including on the legislative side.

[36] For example because in the same enterprise, there is already another subsidiary that produce the same substance or even a subsidiary in a third country having an OR or importers having registered the same substance.

Several cases must be examined[37]. They include:

- The case of Only Representatives established in UK that represents a manufacturer selling its products also on the EEA (2019) market;
- EU downstream users that will become importers[38] (that were supplied via UK previously. The cases of supply by a UK manufacturer are examined here under);
- New Only representative of British manufacturer;
- Importers from British manufacturers (without an OR);
- EU manufacturers that may take over the production of substances previously manufactured in UK.

For the first case, a transfer of registration can be done already right now and is foreseen in the Practical guide 8: '*How to report changes in identity of legal entities*'.

The case of new importers (as UK will be a third country) is clearly specific to the Brexit. Under my assumption, this case is similar to a split of enterprise (in relation to the practical guide as two legal entities will need a new registration) but the circumstances are completely different. It does not seem so easy to implement in practice (except within a same enterprise) but these cases should be rather exceptional.

The two following cases concern the UK manufacturers that will become third country manufacturers. Therefore they will have to appoint an OR. If not, it will be to the importer(s) to ensure the registration. The case of an OR is the reverse case of Croatia. If the UK manufacturer does not want to appoint an OR a transfer of registration could be envisaged for only one importer (with possible conflicts between importers if there are several).

The last case I mentioned concern the transfer of a production. This exist already presently within the EEA. (Case very similar to the sale of assets covered by the Guide). The reason to move the production to the EU is not necessary a consequence of REACH but could have another reason (in particular in case of hard Brexit).

For what concerns the costs, it is not the fault of the concerned EEA legal entities that UK wants to leave the EU. If we apply strictly the Kaldor-Hicks approach, it would be to UK (via the exit bill) to cover these costs and then to the Commission to transfer to ECHA the corresponding funds covering the costs of transfer.

British lead registrants

This particular case will require a careful examination (and could lead to a necessity to adopt an implementing regulation[39]). Fortunately the Brexit date is after the 31 May 2018. According to Article 29 (3), each SIEF shall be operational until 1 June 2018 but the legal basis to have a lead registrant is not in Title III but in articles 11 (1) and 19 (1) (join submissions). As British lead registrants will no more be established in the EU (2019) [EEA (2019)], the question to replace it need to be examined. It is possible also (case of small joint submission) that the

[37] For post Brexit registrations, see the following sub-section in Chapter 2

[38] I suppose that, in parallel, the UK OR or the UK importer will ask (if possible) for the transfer of the current registration by ECHA.

[39] See Regulation (EU) 2016/9 on join submission as a former case of implementing Regulation of REACH

volume band of the lead registrant is higher than the volume band of the other registrants for the substance. The question is important for the data sharing, in particular if the substance will be included in Annex XIV or XVII.

Authorisations to British enterprises (downstream user)

On basis of Article 56 (1) (b), if the use of a substance has been authorised upstream, it can be used downstream (submit to the condition of Chapter 3 of Title VII). From the Brexit date, in principle the authorisation does no more respect the conditions of the regulation (authorisations may not be granted directly to companies outside the EU. At least the non-EU manufacturer need to have an OR to apply for an authorisation). An ad hoc solution should be found to maintain the validity of the use of the authorised substance on the EU market after the Brexit date[40].

British RAC and SEAC members

British members of RAC and SEAC are not representing their country but were appointed on the basis of their own qualifications. In addition a Member State may nominate candidates from another country and the committees may co-opted additional members. The REACH regulation does not requires that the Members are EEA citizens. However paragraphs 5 and 6 suppose that the members nominate by a MS will be supported by their Competent Authority. There is no obligation for the Members as well to stay until the end of their mandate.

Finally UK made important contributions to REACH by preparing several Annex XV dossiers. Some of them could still not be finalised on the Brexit Date. A similar situation was foreseen by REACH for the restrictions that were under examination before the entry into force of Title VIII (see Article 137).

Future relations between UK and EU

Though it is not the purpose of this document to examine the content of a possible agreement between EU and UK on REACH, if UK register new substances, could they be recognised by the EU (and the same for new substances registered in the EU). It could, for example have an impact on the implementation of Article 2 (7) (c) for substances registered in UK, and reimported in the EU. Rather than to register substances twice it could also be covered by a cooperation between UK and ECHA in such agreement.

[40] The question of new substances added in Annex XIV and XVII (and their possible UK corresponding annexes is examined under the following sub-section of Chapter 2

Chapter 2: UK REACH regulation

General Comments

Need of UK regulation

I don't want to provide a political point of view but well a technical analysis. My starting point is that the main effect of the Brexit is that UK will not be a Member of the EU and British legal entities will no more be EU legal entities. The section 1 of the European Union (Withdrawal) Bill 2017-19 repeal the European Communities Act 1972 on the exit day. As a consequence any EU Regulation cease to be applicable in UK. Unlike the directives the regulations are directly applicable in any Member States and, therefore are not transcribed in national law. Therefore there will be a gap. Clearly the intention of the Government is not to reduce the level of protection of the environment of the workers and the health and there will be a need of legislation applicable from the exit date[41].

The Prime Minister approach in order to fill the gaps is to incorporate direct EU legislation into domestic law by virtue of section 3 of the Repeal Bill. It is, in principle a simple way to avoid gaps in the UK law[42].

The Repeal Bill[43] considers also in its section 7 that some changes are needed as indicated in sub-section 1 of that section. Clearly as the way the regulations will be adopted derogates substantially from the normal procedure to adopt law, the power to modify the EU regulation must be interpreted in a restrictive way. For that reason sub-section (6) foresees several restrictions. If the possibilities to respect these conditions remain very large, the purpose is not to create a completely different legislation from REACH. Clearly the timing is very thigh and there are hundreds of other regulations that need to be transcribed in domestic law.

It is therefore essential that UK has a clear view on its future policy on chemicals after the entry into force of the future agreement on the relations between EU and UK[44].

A pure technical transposition of REACH with the minimal changes could lead to an oversized regulation and administration, in particular if UK wishes that its legislation is compatible with the EU legislation in order to have a frictionless trade of the chemicals (including the other sectors incorporating chemical products). It is essential also to have a wider view than REACH alone and to consider the other regulations related to the chemical policy.

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[41] See, among others: the factsheet 8 'The Environmental protections' of the Repeal Bill and the response of Minister Coffey to the EU Energy and Environment Sub-Committee of the House of Lords

[42] I remind that, in the case, UK could join the EFTA in order to remain member of the EEA, even for a transitional period, the Repeal Bill approach should be reviewed in deep. See also the section on EEA in Chapter 3. As mentioned also in the Preface the Government could have made an in deep analysis of the gaps that will appear in the UK legislation already before the referendum. It could have led to a more limited number of new legislation and also to a better consultation (at least) of the Parliament, but it is clearly too late now to change the approach.

[43] In addition section 8 concerns the international agreements (like the Stockholm, Rotterdam, Basel or Aarhus conventions, the GHS and the implementation plan of the Johannesburg World Summit)

[44] Currently the Government is preparing its 25 year plan for the environment but there is a high risk it will be proposed already too late. From the Florence speech we have also now to consider a potential transitional or implementing period that could also lead to a certain phasing [reference au point timing]

If an EEA-like agreement is possible, or even if a transitional period can be defined following EEA-like principle it seems wiser to me to look to what Norway[45] did than to start immediately on the UK REACH. On the opposite, if UK follow strictly the approach of Prime Minister on 17 January, then it is urgent to start to work on the UK REACH and on its administrative organisation. However, even with that objective or even more in that case there is a need to clearly define the future policy.

First REACH is clearly designed for a multi-country framework and typically the EU framework on the basis of its institutions.

The ambition of EU is large (even if many stakeholders consider it is too narrow and too slow) and the resources are larger than what UK will be able to mobilise. Therefore the structure of REACH may be oversized for UK. I think it will be interesting to listen to what Turkey have already done with their KKDIK[46] and also on the time it took to arrive to the final version of the draft.

The question is clearly also about efficiency: If UK try to replicate strictly the restriction and authorisation on its own what will be the real added value of it? In principle the procedure is to identify new substances. To make exactly the same work as ECHA for the same substance is clearly globally inefficient and could be ineffective in addition if the conclusions are different. If it is to have additional substances to the one of EU, it will create frictions in the trade from EU to UK and the measure would be more efficient if the same substance could be also added in the relevant EU annex (but that requires an agreement between EU and UK). If UK does not wish to have in its domestic legislation the substances that will be added after the Brexit then it will be the trade from UK to EU that may face frictions. Furthermore is that really what UK wants? What would be the reason to exempt these new substances? Are they presenting really lower risks and hazards when they are put on the UK market?

The fact that EU and UK would work separately in the evaluation of substances and identifying the best management options will create duplication of work (and additional burdens for the enterprises present on both markets).

Of course it is also possible to simply add the substances added in the EU lists also in UK lists. It would substantially reduce the costs for UK but also the capacity to influence that policy. For those aspects, clearly the situation of UK will be different from the one of Turkey. If UK wants to reduce the costs maybe it could be interesting to learn from Switzerland. They are even more dependent of the trade with EU!

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[45] The Norwegian Regulation implementing REACH can be found at the following address: https://lovdata.no/dokument/SF/forskrift/2008-05-30-516. At the bottom of the page there is a link to the database in English. I have as well the French translation (embedded at the end of the document) of that text. According to an article of Politico, on the 1 September, during a meeting of the U.S. Chamber of Commerce in Washington, Minister Davis indicated that '*Britain is considering joigning Norway and Switzerland as a temporary member of the EFTA (…)*'. Mr Davis revised his position however quickly after.

[46] The KKDIK has 67 articles and 18 annexes. The administrative aspects are seriously simplified as no Agency is created under that law. There is only one authority ('The Ministry of Environment and Urbanization). To download the English version of the articles in the beginning of section "Yönetmeliker:" select KKDIK Yonetmeliği – Ingilizce.

Is mutual recognition an alternative?

According to an article of Luxe Buxton of 20 July published by Chemical Watch the 'UK intends to secure an early 'mutual recognition' agreement on chemicals policy with the EU before it exists the Union' according to Minister Dr. Thérèse Coffey during the meeting of the UK Chemicals Stakeholder Forum of 18 July.

In the position paper 'Continuity in the availability of goods for the EU and the UK' Under the Principle B there is a section on '*Approvals, authorisations, certificates and registrations issued prior to exit should be continue to be recognised as valid*'. It follows the same approach and for the HM Government as well as a unilateral point of view, it is coherent. The approach of the paragraph 28 could be implemented in UK side (but may be not on the basis of the Repeal Bill if it is not covered by an agreement before UK leaves the Union). I may understand the positive reaction from the CIA in its press release of 15 August. However I fear that from an EU perspective, and for the implementation of REACH it could not be acceptable. (In particular in relation to the controls in UK, the obligation to update registrations and the competence of the European Court of Justice).

The pure mutual recognition (after Brexit) seems to me not compatible with the rules of REACH related to the registration, but this is just my opinion. I see possible difficulties also on the basis of the market surveillance legislation that also requires the powers of the ECJ, but this is outside my scope of competences.

I see however one particular case where a mutual recognition could be envisaged, in the case UK decides to follow EU Annex XIV after the Brexit and decides to grant authorisation to UK enterprises, provided both parties agree on the equivalence of the procedures to grant authorisations. In that case a downstream user in one of the party can use a substance/mixture covered by an authorisation granted by the other party.

Setting priorities

Transfer of registrations

As already said, it is essential to clarify to which extend it will be possible to transfer existing registrations from the ECHA to UK or to ensure an access to the register of ECHA and under which conditions?

Article 5 of REACH is surely key. Therefore the management of the registration (existing under REACH, updating and new registrations) is very important.

Structure

The fact that in the EU REACH regulation we have 3 main actors (on the legislative side) the MSCA, ECHA and the Commission is clearly linked to the structure of the EU Institutions and to the EU legislation. UK will have to define its best organisation.

The interest to create an ECHA like agency should be studied carefully, considering also other EU Regulations (CLP, Biocides, Trade of hazardous chemicals, POP's etc.). If UK consider useful to create such an Agency the question of the Board of Appeal requires a further examination

(alternative solution in the framework of existing legislation?). Also, even if it considered appropriate to have such an agency, maybe its settlement could be postponed. The Repeal Bill is valid until 2 years after the Brexit date (according to the current draft).

In the EU legislation transparency and consultations are essential as well as the collecting of information and expertise (also via different formal and informal committee). I may assume that UK has rather the same approach and will try to replicate (at least at the beginning) what EU has done up to now.

To which extend contacts and consultations will also be organised with the future 'third countries' of the EEA (2019) is more a question for the negotiation on the future agreement (except if an EEA-type transitional is possible).

Considering the time constraint, maybe the Titles of REACH related to authorisation and restriction will not be a first priority (considering also the resources needed).

References to UK legislation

The EU regulations used to have many references to other legal texts (including directives, decisions and others). When a regulation is amended, these references are not updated. It is advisable that UK set up rapidly a database of the EU legislation in force - including the former legal texts that they may replace – with the corresponding UK legal text (in particular the new regulations that will be adopted in accordance with the Repeal Bill[47]). The difficulty is that there will be continuous changes in the said database until the Brexit Date.

Other general questions

Obsolete provisions and not relevant provisions

In the REACH Regulation, since it adoption, several provisions are now obsolete. In addition other provisions are not relevant in the case of a pure national legislation. I think that the identification of the relevant part of the text for further consideration can be the subject of a first scanning of the regulation (on basis of section 7 of the Repeal Bill). Example: Article 7 (7) deadline of 1 June 2011.

The different actors in REACH

In addition of the MSCA, ECHA and the Commission, many other actors require a special attention, starting by the manufacturers, the importers and downstream users as well as the only representatives and third party representatives and then the different stakeholders, experts and other administrations (like the customs, for example, the helpdesk eventually…). It is advisable to reconsider the role of each of these actors and their relations (including consultations prior to the adoption of the UK REACH, transfer or communication of information, IT tools …).

[47] It is unclear for me what will happened if a retained regulation has to make a reference to non-retained regulations. I leave that question for lawyers.

Other regulations

Before deciding how to transpose the EU REACH into UK REACH, it is also necessary to know what shall be do for several regulation having (close) links with REACH. In particular:

- Regulation (EC) 1272/2008 (CLP)
- Regulation (EU) 528/2012 (biocides)
- Regulation (EU) 649/2012 (trade of hazardous chemicals)
- Regulation (EC) 850/2004 (POP)
- Regulation (EC) 648/2004 (detergents)
- Regulation (EC) 2003/2003 (fertilisers)
- Regulation (EC) 1223/2009 (cosmetics)
- Regulations (EC) 273/2004 and 11/2005 (drug precursors)
- Regulation (EU) 2017/852 repealing Regulation (EC) 1102/2008 (mercury)
- **Regulation (EC) 726/2004 (medicinal products => UK Agency?)**
- Regulation (EC) 1367/2006 (Aarhus Convention)

Or some more distant regulations:

- Regulation (EU) 1007/2011 (textile fibre names)
- Regulation (EC) 765/2008 (market surveillance)
- Regulation (EC) 66/2010 (ecolabel)
- Regulation (EU) 1025/2012 (standardisation)

And trade issues like Regulation (EU) 2015/1036 (Anti-dumping) and several others.

Transitional arrangements

In addition to the registrations already mentioned but that will require an ad hoc provision in the UK regulation (probably as a derogation to articles 6, 17 and 18 + additional provisions related to their update) there are many other cases of an action starting at a certain moment and terminating later. The main cases are discussed under the 'specific questions' here under.

Timeframe

On the basis of Article 50 of the Treaty on EU and **in the absence of any other Decision**, one have the following timeframe:

29th March 2017 notification of UK intention to withdraw from EU.

Before the 30th March 2019: conclusion of the Withdrawal agreement (preferably before the end of October 2018 in order to provide the time for it adoption.

Between the formal agreement of withdrawal by the Council and the Brexit date: adoption of transitional provisions based themselves on withdrawal agreement + possibly other arrangements, in particular non-legislative agreements that may have another legal basis.

From the end of the 29th March 2019, UK is no more a (EU) Member State (for EEA, it is much more controversial).

After (but also already before) transitional rules may apply but they may not change (in my view) that UK will no more be an EU Member State.

From the Brexit date a new agreement can be adopted on the future relation between EU and UK (theoretically even on the 30 March 2019). Before that date UK may not conclude a trade agreement with a third country that includes provisions falling under the sole competence of the EU (see Article 3 of the TFEU).

In addition the Council decided that the negotiation has two separate steps: the first one dealing with the rights of EU and UK citizen, the so called 'divorce bill' and Northern Ireland. I may also covers the general conditions of a transitional period. The Guidelines adopted on 29 April 2017 say: "*Should a time-limited prolongation of Union acquis be considered, this would require existing Union regulatory, budgetary, supervisory, judiciary and enforcement instruments and structures to apply*".

This is for the EU side but the UK side is also very important and the 'Repeal Bill' (under discussion) will have strong impacts within UK even irrespective of what can be decided on the EU level.

The clause 1 of the (draft) Bill repealed the European Communities ACT 1972 on the exit day. This latter is defined by clause 14 (1) as "such day as Minister of the Crown may, by regulations appoint (and see under subsection (2))". During the debate many asked to fix the date in this Bill. For me the EC Act 1972 may not be repealed before the date resulting from the implementation of Article 50 of the EU Treaty, whatever is that date.

Furthermore, I have understand also the (at least) the 'Ministry' may decide on the withdrawal of UK from EEA (what is coherent with the last speech of Prime Minister in Florence on the 22 September).

Article 50 (3) allows to modify the deadline for the withdrawal agreement.

In my view, Article 50 does not prevent to fix another date for the Brexit date, if it is approved by the concerned parties, but I read also different views (at least on the procedure to agree on that change).

In her speech in Florence, Theresa May was in favour of having an 'implementation period' (concept not 100% clear for me in that framework), in principle after the Brexit Date (Exit day). If I understood her rightly, during that limited period (maximum 2 years) the EU legislation could be maintained. If this is correct, maybe also, for UK, to postpone the Exit day by two years would also be an alternative but creating huge problem with those that, in UK would see this as a weakening of the strong position of UK to leave EU.

However, such an approach (that should also be accepted by EU!) could bring a lot of advantages for UK starting with a possibility to review significantly the national timeframe of

the 'withdrawal bill'[48]. As more time could be available for a good scrutiny the role of the Parliament could be seriously increased at the benefit of the British democracy.

If, on the EU side also some flexibility could be accepted in order to allow to UK a wider possibility to maintain the current FTA it benefits as a EU Member States, it would simplified substantially the transition to the current EU customs Union to a new FTA, even if it would be outside a customs union, without any tariff and allowing also to have more time to find a solution to the 'prove of origin' challenge. There may be there is a (reasonable but also feasible) need to be innovative.

Up to now, we may assume that, after the Brexit, one may have a transitional or implementing period and, in my view, the two words are not equivalent, but, furthermore a succession of transitional and implementing periods are possible the first one (transitional) giving more time to adopt several legislation and to organise the Administration (before the EU legislation will no more be applicable) and a second period leaving more time for additional measures (possibly also like creating a UK Agency if really consider as necessary by UK or in the framework of other former EU legislation).

It is even possible to go further: Does the current single draft EU (withdrawal) bill really need absolutely to be one single act (in particular as, up to know very little is known on the 7 other bill announced by the Queen speech? Are there gaps or overlapping? Or, even worse, contradictions?). Is it absolutely necessary, in the same bill to cover the repeal of the European Communities Act 1972, how to retain and further amend the EU legislation into force and the measures needed to implement the withdrawal agreement?

Is it also absolutely necessary to have one single agreement on all the future relations between EU and UK? The relations between EU and Switzerland were probably the most important in the middle of the 90's when Switzerland, also via a referendum, decided to not be part of the the EEA. In that case, more than 1 agreement was needed but it allowed also to make progress!

I learned, I think something from my evening courses at the Cooremans Institute when I became a national expert at the Commission and was involved in both the European Agreement with the so called 'PECO', in the EEA as well accession treaty with Austria, Finland and Sweden and in the termination of the Customs Union with Turkey: It is that when you have a problem to arrive to an agreement you should use time. Time may solve a lot. When

[48] The status of the 'implementing period' should be clear. According to Theresa May speech in Florence the period of implementation will be after the Brexit Date but it is not very clear to which extend EU legislation will be applicable in UK. Michel Barnier in its statement of 22 September says "*Today, for the first time, the United Kingdom government has requested to continue to benefit from access to the Single Market, on current terms*". He added: 'If the European Union so wishes, this new request could be taken into account. It should be examined in light of the European Council guidelines of 29 April 2017: *"Should a time-limited prolongation of Union acquis be considered, this would require existing Union regulatory, budgetary, supervisory, judiciary and enforcement instruments and structures to apply."'.* If now we consider the current draft proposal of the 'Repeal Bill, things are not crystal clear on any new legislation that will enter into force during that period. Shall it be retained or not? For a regulation like the 2017/821, already into force, but that will be applicable to imports from 1 January 2021, and assuming this implementation period will not terminate before that date, does it means that it will be covered by the Bill?

you look to 5 years in the future, it seems an eternity but when you look to 5 years in the past, it seems as yesterday (in particular at my age!).

Alternatives for the authorisations and restrictions; post Brexit registrations

Authorisations and restrictions

I think that, at least during a transitional period (and preferably after also), UK shouldn't develop its own list of substances to be added in Annex XIV and XVII and decides on authorisations using its own rules in order to avoid legislative divergence[49]. In that case specific UK rules will be needed in order to recognize the addition of new substances in EU Annexes XIV and XVII. I don't know if this will be compatible with clause 7 of the 'Repeal Bill'[50], but it should be decided before the Government starts to draft the UK REACH as one of the main principle of the future UK REACH.

For the authorisations, one could envisage in addition a solution for UK to grant authorisations (including renewal of running authorisations) for the new substances added in Annex XIV that could be recognized in EU (no more unilateral, in that case, and therefore surely not covered by clause 7 of the 'Repeal Bill' but well under clause 9).

Post-brexit registrations

In addition of the pre-brexit registrations, the Government should give a particular attention as well to the post-brexit registrations for any substance traded between EEA and UK.

Though I am not optimistic to have an agreement between EU and UK specific to REACH if not included in a larger approach, probably EU and UK would have a mutual interest to keep one single database for the registrations. I leave to lawyers to examine the condition for such a cooperation[51] with two options: ECHA (alone) manage all the registrations, including those only necessary in UK or a cooperation is established between UK and ECHA to share the database. In that perspective it could be possible to have co-registrants of a same substance from both UK and EEA.

If such an approach is not feasible, both parties should however avoid to have a full new registration with risks of duplicating animal testing in particular but more generally avoiding unnecessary cost for the business. Also, before any registration a system of inquiries covering the other party should be established.

For the moment it is difficult to understand and to know what could be covered by the 'implementing period' of Prime Minister. I may, at least assume that it will fall under the transitional arrangement foreseen by §19 of the guidance for negotiation. This would be (possibly) included in the UK REACH on basis of clause 9 of the 'Repeal Bill' but with a high

[49] That would not be acceptable as long as UK will be part of the Customs Union though no more be part of the Single market. (See Article 9 to 11 of the Customs Union Decision 1/95 with Turkey).

[50] From the debate in the House of Commons, many MP wanted to have clearer rules on what the Minister can decide or not under the Bill and, in particular clause 7. I fear that it would be very difficult to set such rules that fit for any particular regulation. Most likely thinks that should be avoided for one regulation could be precisely what should be done for another regulation.

[51] In particular on the competent jurisdiction on access to confidential information.

risk to be adopted shortly before the Brexit Date leaving not enough time for the business to adapt. Therefore there is also a high risk that they will use a more prudent approach …

Specific questions

Precautionary principle (Article 1 (3) last sentence). Reminder[52]. In the Swiss legislation one find an obligation of due diligence.

Defence exception (Article 2 (3). P.m. [I assume UK knows if there is an exemption of not].

Import or recovery of substances registered in the EU[53]: (Article 2 (7) (c): case of substances registered in the EU (but not in UK) and exported to third countries before (or even after) the Brexit date and imported after that date or substances registered before the Brexit date and recovered after that date under the condition of Article 2 (7) (d) of EU REACH.

Definitions: (Article 3). 43 definitions under article 3 (3 definitions under point 15) 6 others elsewhere in the text (synthesis, lead registrant, Member State Committee, Sunset date, forum + de facto definition of Risk Analysis Committee and Socio-Economic Analysis Committee). UK may wish to define other words (see KKDIK with 48 definitions). A special attention should be given to the lead registrants!

Phase-in substances: the transition for phase-in substances terminates on 31 May 2018[54].

Lead registrant: There are specific problems for co-registrants in UK if the lead registrant is in EEA (2019) or for co-registrants in the EEA (2019) if the lead registrant is in UK. It seems that, in both cases, a new lead-registrant should be designated though it might be quite theoretical (cases where a substance is added to Annex XIV or XVII or there is a subsequent decision on animal testing).

SIEFs: Deadline of Article 29 (3) fixed on 1 June 2018: however it make sense to maintain SIEFs later for special cases. That question should be examined under the REACH REFIT (2017).

Substances already registered but with new manufacturers or mainly importers due the Brexit (already discussed).

Chapter 2 of Title II (biocides): verify possible changes needed following the entry into force of Regulation 528/2012.

Re-registration as a consequence of Brexit (also for the EEA (2019) side): maybe a delay is needed.

[52] According to my reading of the draft 'Repeal Bill' and of the debate on it at the House of Commons, UK will not retained the precautionary principle as defined by COM(2000)1.

[53] The same question could apply later on the EU if new substances are registered in the UK. Shall the EU, in that case recognise the UK registrations?

[54] Substances pre-registered and that were not produced or imported in a quantity superior or equal to 1 ton may be registered after the 31 May 2018. The reference to 'phase-in substances' is not limited for the registration deadline (see Article 12 (1) (b) [and Article 21 (1) second sub-paragraph though, this sub-paragraph will be obsolete for me].

Inquiries under article 26: to be considered in relation to which registrations (UK's? and/or EEA's). (Also for the EEA (2019) side).

Cost sharing under Title III: new costs when there are registrants on both sides.

Article 30: avoidance of animal testing: information exist on one side but not on the other side.

Article 36: will it be possible (during a transitional period) for ECHA to ask information to British enterprises? (The lead registrant is a British company and there are co-registrants in EEA (2019)).

Article 48: for the REACH REFIT: the reference to Article 115 should be reviewed (it no more exist as a consequence of adoption of Regulation 1272/2008).

Title VI: general transitional problem of the substances registered by UK enterprises which evaluation was not finalised prior to Brexit date. When UK will be operational and for which registrations?

Title VII (authorisation): On the basis of section 3 of the Repeal Bill, UK should incorporate in domestic law running authorisations granted to UK legal entities.

What about the application by UK entities introduced at ECHA but not yet granted (different stages: still under examination at ECHA or the Agency has sent its opinion at the Commission)?

Would it be possible to suspend the authorisation process in the case UK wouldn't be ready on the Brexit date to process the application for authorisation? Could it be possible, in that case to extend the validity in UK of running authorisations?

If applications for authorisations were introduced by ECHA prior to the Brexit date could a UK entity use Article 63 for subsequent application for authorisation?

Titles IX to XV: It is possible, of course, to be very close to the EU REACH Regulation but there is no need to do that. It is worthwhile to follow the principles of these Titles like in the case of directives, but to adapt them to the British situation.

Annexes. I didn't examine in detail the annexes, in particular Annex II that is almost a regulation in itself. I started from the principle that all the annexes will be incorporated as such in the UK REACH 'mutatis mutandis' (like the references to EU legislation). NB the Swiss legislation refer sometime directly to the EU legislation!

Could UK introduce new measures (in addition to the authorisations and restrictions)? Why not, but it does not seems possible on the basis of the Repeal Bill. This type of novelties should follows the normal legislative procedure.

Secondary legislation/ Annexes of REACH and guidelines

Introduction

The previous sections of this Chapters concerned the articles of REACH only. The Regulation has also 17 annexes, 5 implementing regulations, several decisions on authorisations and around 10.000 pages of guidance it has also 131 'whereas' in its original version.

Under this section I limit my comments on some aspects of the implementing regulations, on the annexes of REACH, the Decision taken and the guidance.

Implementing legislation

In addition to the various regulation amending the annexes of REACH, the amendments introduced by Regulation 1272/2008 (CLP) and the Decision 25/2008 of 14 March 2008 of the EEA, REACH has presently 5 implementing regulations (1238/2007, 340/2008, 440/2008, 771/2008 and 2016/9) some of them having been amended. There are also several decision regarding authorisations and a lot of guidance.

Under the current draft proposal of the 'Repeal Bill', the two regulations related to the Board of Appeal shouldn't be retained. The regulations 340/2008 (fees) and 440/2008 (on test methods – 1900 pages!) should be retained as secondary legislation of the UK REACH while some provisions of the Regulation 2016/9 could be integrated into the REACH Regulation or be covered by a secondary regulation[55].

Though the current provisions of the fee Regulation are a good starting point for a UK regulation, as such, there is no evident need to have strictly the same approach. As the 'Repeal Bill' is very sensitive, at least at the beginning it can be a good idea to be as close as possible to the EU Regulation. That UK regulation could, however, includes transitional provisions related to the substances already registered by ECHA.

The Test methods Regulation is mainly based on REACH and the EU legislation but it is also based on the OECD works (Several Test guidelines) and could fall therefore also under clause 8 of the Repeal Bill.

Considering the very technical nature of the Commission implementing Regulation 2016/9 it is not very clear for me, up to now, how to retain it into the domestic legislation.

Annexes of REACH

I didn't checked the amendments needed in order to incorporate them into the domestic legislation. I must however draw the attention on Annex 2, adopted before the Lisbon Treaty. By its nature, this annex is rather an implementing regulation of REACH, adopted at a time Articles 290 and 291 of the TFEU didn't exist. Therefore at that time, typically annexes of the

[55] I have to recognise that, up to now, the way EU secondary legislation will be integrated into the new retained legislation is not yet clear for me. Mr Davis, on the 8 September, during the debate in the House of Commons on the 'Repeal Bill' said that around 12,000 EU regulations and nearly 8,000 derivate acts should be retained into 800 to 1000 domestic regulations, i.e. without a one to one correspondence. The way he arrived to 800 to 1000 regulations is absolutely not clear for me.

primary legislation could be amended by the Commission and therefore one found several annexes that had the nature of a separate implementing Regulation.

Decisions

According to DG Growth Web site, end of August 2017 38 decisions of authorisation were granted by the EU Commission and 60 were pending. Some of them concern British enterprises! Therefore they must be included by the retained legislation the case of authorisations granted to EU (2019) legal entities having downstream users in UK should be examined carefully.

Guidance (and support to enterprises)

In addition to the REACH Regulation there is a large number of guidance for enterprises for the implementation of REACH. Fortunately they all exist in English and do not requires translation. Some of them are also translated in Irish.

Chapter 3: Further comments on the influence of the type of agreement on the work to be done on REACH

In this Chapter I will only consider what to do in order to be as close as possible to the current situation. Clearly this assume that the current REACH (eventually improved following the current review) is the best option (considering the balance of interests).

I will start by a reflexion on procedural aspects (mainly EU side) and continue by a discussion on the main type of possible agreement.

Procedural aspects

Article 50 is not sufficient to know exactly the procedure that should be followed:

> We know (on basis of Article 50 (2) of the TEU) that an agreement between the UK and the Union setting out the arrangements for the withdrawal is needed.
>
> It must take account of the framework of the future relationship for the future relations between the two parties.
>
> That agreement has to be adopted in accordance with Article 218 (3) of the TFEU.
>
> The agreement shall be conclude by the Council on behalf of the Union.
>
> The Council will acting by qualified majority after obtaining the consent of the European Parliament. The said qualified majority shall be defined in accordance with Article 238(3)(b) of the TFEU.
>
> The agreement must be concluded within 2 years from the notification of the withdrawal (that took place on the 29 March 2017), except if by unanimous agreement, the European Council decide to extend this period (Article 50 (3)).
>
> In absence of an agreement within the delay, the Treaties cease to apply in UK (Article 50 (3)). It is important to note that, in accordance with the Article 50 (3), the Treaties could cease to apply on the date of entry into force of the withdrawal agreement (that could be exactly two years after the notification but could be different as well[56]).

Nothing more is said on the content of the withdrawal agreement in the TEU.

EU side

Since the notification of 29 March, the European Council as adopted guidelines for the conclusion of an Agreement[57] (in accordance with Article 50(2), second sentence). They were followed by the '*Recommendation for a Council Decision authorising the Commission to open negotiations on an agreement with the United Kingdom of Great Britain and Northern Ireland*

[56] So, to my understanding, if the Council agrees within the delay of 2 years, the entry into force of the withdrawal agreement can be after the 29 March 2019. i.e. the UK may leave definitively the EU at a later date (leaving more time for a transitional period before the Brexit in order to adopt regulations on both sides).

[57] Its draft was made available on 31 March under the number XT21001/17 by the Council of the EU

setting out the arrangements for its withdrawal from the European Union[58]' [COM(217) 218 of 3 May 2017] (see in particular its annex).

> Point 7 of the guidelines indicates that the timeframe set out in Article 50 TEU ends on 29 March 2019.
>
> Point 8 to 11 covers the 3 initial priorities of EU. Point 13 requires that UK will continue to respects international commitments. Point 17 requires that the withdrawal agreement includes appropriate dispute settlement and enforcement mechanisms.
>
> Point 6 foreseen possible transitional arrangements to provide bridges to the foreseeable framework[59] for the future relationship (…). They will be for a limited period (of prolongation of Union acquis). The said future relationship are further described under chapter IV (points 18 to 24). Chapter V (points 25 to 27) concerns the principle of sincere cooperation and the last point on procedural arrangement refers to the arrangements already set out in the statement of 15 December 2016.[60]

UK Side

From the British side we have (among others) the Lancaster House speech of Prime Minister of 17 January 2017, the Prime Minister letter to Donald Tusk of 29 March (notification article 50[61]) and the draft Repeal Bill already mentioned + several position papers as indicated in the beginning of this written contribution.

One has to recognise that this framework leave place to a lot of uncertainties (and room for different solutions).

Considering the timeframe, the transitional arrangement will be very important and, clearly from the EU side, the future relations between EU and UK will be negotiated after the Brexit (but initial discussions in order to define the framework ('foreseeable framework') should take place before the Brexit date (as necessary to define the transitional arrangements)).

From my understanding the Government (and, in particular, the Prime Minister) have a different view: The future arrangement should be negotiate and adopted before the Brexit date. Therefore one would have *implementing arrangements* rather than *transitional arrangements*[62].

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[58] The title of the recommendation follows strictly the wording of Article 50 and made clear that it is how the Commission understand the provisions of Article 50(2).

[59] Though this text is not too much clear and leaves a certain margin of interpretation, a bridge, normally has minimum two pillars and the transitional arrangements needs to have a sufficient foreseeable framework, even if there is still a risk to not be accepted at the end of the negotiation. It cannot be opened to any type of agreement and without time limit.

[60] The second paragraph of that document recall the statement of 29 June 2016 and reiterate that '*Any agreement will have to be based on a balance of rights and obligations, and that access to the Single Market requires acceptance of all four freedoms*.' This position is often attributed to Michel Barnier in the British press.

[61] See also https://www.gov.uk/government/speeches/prime-ministers-commons-statement-on-triggering-article-50

[62] Even though, on 18 July Baroness Anelay of St Johns during a debate in the House of Lords on the trade aspects of Brexit qualified this difference of 'semantic'.

Next steps

A new round of negotiation should have taken place the week of the 25th September. In addition a new important intervention of the Prime Minister was announced for (maybe) the 22nd September in Florence.

25 September: General Affairs Council (Art.50) in Brussels

19 or 20 October: the European Council of October, after an opinion ('consent') of the European Parliament) will have to verify if 'sufficient progresses' took place during the first phase before starting the second phase. There is a high risk that no decision will be taken during that round and the question should come back at the end of the year.

Possible transitional arrangements procedure

Little is known, until now, on how transitional arrangements will be discussed (consultation) and approved. There is no real precedent.

For me the closest situation I know was after the conclusion of the Marrakech Agreement (end of the Uruguay Round). On 5 October 1994 the Commission presented a set of 10 different regulations for the implementation of the Uruguay Round. The Agreement entered into force on 1 January 1995 so the time was very tight. For the agricultural sector the Council adopted the Regulation (EC) No 3290/94 on the 22 December 1994. Article 3 foresees the possibility, for the Commission to adopt transitional measures in order to facilitate the switch-over from existing arrangements to those resulting from the requirements of the agreements (referred to in Article 1, listing decided arrangement resulting from the Uruguay round). Around 130 Commission's regulations were adopted on the basis of that Regulation.

I could refer also to the Accession of Spain and Portugal[63] but as a counter-example. At that time, despite the Act included 404 articles, for what concerns the implementation of the Common Agricultural Policy one has the article 91 (for Spain) and 258 (for Portugal) allowing the Commission to adopt more transitional measures[64].

I assume that the Commission is trying to have proposals as simple as possible for all the agreements to be concluded before the Brexit Date. I know that lawyers of the Commission can be very imaginative for that and find innovative approaches. It means that, like for my two examples on the EU side, transitional measure could be adopted by a simplified procedure. I am also convinced that the different institutions have already made extensive screening of the current legislation to identify the most sensitive points and possible problems and to be able to present answers/alternatives to UK position papers.

If the Commission is able to prepare itself, I am less confident on the capacities of each individual Member States to analyse the different documents and to make their mind.

[63] Go to Eur-Lex, select the tab 'EU law and related documents' > Treaties > Accession Treaties > Treaty of Accession of Spain and Portugal (1985) and then the OJ L 302, 15.11.1985.

[64] In February 1985 (As, for agricultural products the Act was applicable from 1 March (see Article 394)) I was in meetings at the Commission or the Council during 17 days, some meetings finishing in the morning, next day!

The main alternatives[65]

Current effects of the referendum and the notification of the Brexit

Whatever will be the final solution, including a 'withdrawal of the withdrawal') the simple fact that the referendum was in favour to leave EU has progressively increasing effects(for both EU and UK) and the level of uncertainties most likely increase several negatives effects for UK.

There are already visible effects on the movement of workers leaving UK (some of them being very sensitive for the UK producers, industrial and agricultural), on enterprises that decided to move to EU (2019) and, soon the Council will decide on the re-location of two EU agencies moving from UK to EU (2019)[66].

For what concerns the trade, the influence on the British pound is apparent but it is difficult to determine what part may be attributed to the Brexit. However the fluctuation of the £ has influence on the trade figures. They are different if you make comparisons in £ or in €![67]

The following statistics are expressed only in Euro.

Between the first semester 2016 and the first semester 2017, the introductions of goods from EU into UK increased by 0.62%. The imports from third countries into UK reduced by 3.40%. For the whole EU the internal trade increased by 7.90% while the imports from third countries increase by 12.15% (first 5 months).

On the export side the expedition of goods from UK to the EU increased by 6.34% during the first semester 2017 compared to the first semester of 2016 while the imports from third countries increased by 9.47% (11.87% for the first 5 months). At EU level the introductions increased by 7.61% (5 months) and the imports by 10.79%.

The share of UK in the total introductions within EU was of 9.69% in 2016 and of 9.09% in 2017 (5 months). The corresponding figures for the imports were of 16.63% and 14.47%. On the export side the share of UK was of 5.69% in 2016 and 5.63% in 2017 for the internal trade and

[65] For a more detailed (legal) analysis of alternatives, I recommend to read the study for the IMCO Committee of the European Parliament 'Legal implication of Brexit' which analyse 3 alternatives: Hard Brexit: WTO rules, EEA and Tailor-made arrangements for the different aspects relevant for IMCO (Customs Union, Internal Market Acquis for Goods and Services, Consumer Protection Law, Public Procurement)

[66] The European Commission as published its evaluation on the applications to host EMA and EBA. It should be presented in October with the aim to decide in November, probably before the starting of discussions on the future relations between EU and UK!

[67] When statistics of trade are established in UK (in £) or in the EU (in €) one mat observe different trends for a same particular flow. Let's assume that for a specific product there was only one import in EU (from UK) in the first semester 2016, that took place on the 5 January 2016 and only one in 2017 that took place on the 16 January 2017. In January 2016 the quantity imported was 100 kg at a price of 100 £ per kilo and in January 2017 the quantity imported was 95 kg at a price of 110 £ per kilo. The actual value of 1 € in £ on the 5 January 2016 was 0.73279 £. On the 16 January 2017, it was 0.88155 £.
The actual evolution of the trade was a reduction of 5%. If you consider the value of these exports in pound, they were of 10,000 £ in January 2016 and of 10,450 £ in January 2017 increasing by 4.5%. If you calculated in € they were of respectively 13,646.47 € in January 2016 and of 11,854.12 € in January 2017, corresponding to a reduction of 13.13%.

of 11.18% in 2016 and 11.42% in 2017. These figures are coherent of the loss of value of the Pound between 2016 and 2017.

Interesting to compare also is the part of the internal EU trade in the total trade of UK and EU:

For the export side, it represented 48.37% during the 5 first months of 2016 and 48.38% for the first half year 2016. In 2017 it slightly reduced to 46.98% during the 5 first months and to 47.65% for the first half year. For the EU that part was of 64.91% in 2016 (5 months) and 64.25% in 2017 (same period).

For the import side, the share of the internal trade was 51.40% during the first 5 months of 2016 and 51.28% for the first half year 2016. In 2017 it increased to 52.07% during the 5 first months and even to 52.30% for the first half year. For the EU that part was of 64.26% in 2016 and of 63.37% in 2017 (5 first months in both cases).

The aggregate **statistics in volume** are not very valuable[68]. At maximum they may provide some indication for more in deep analysis. Here are, however some figures observed on the basis of Comext:

During the first semester of 2017 the exports of UK to third countries increased by 15.65% (and 20.55% during the first 5 months) compared to 3.83% for the whole EU (5 months). On the opposite, the expeditions to the other Member States of EU reduced by 2.11% (and 5.85% for the first 5 months) compared to the increase of 3.05% for the whole EU. As a consequence the part of UK in the total exports of EU increased by 16.1% (going from 7.3% during the 5 first months of 2016 to 8.47% in 2017). For the internal trade the part of UK reduced by 8.64% (from 6.20% in 2016 down to 5.67% in 2017).

In volume, the share of internal trade in the total trade of UK remains important but declining from 68.91% in the first semester of 2016 to 65.23% in 2017, while for the EU (5 months) the corresponding figures are 72.58% and 72.43%.

More information on the trade, for selected chapters, is available at the end of this Chapter.

No agreement

For trade, the WTO rules will be applicable. The EU legislation will clearly not be applicable in UK but EU-like regulations may be adopted on an autonomous basis (Repeal Bill). It does not prevent both parties to negotiate further a new agreement.

Clearly a 'no agreement approach' does not means a 'do nothing' on the contrary!

[68] During the first semester 2017 the value of the exports of UK of products under chapter 71 (Gold …) of the HS represented 7.48% of the total (with an increase of 43.34% compared to the same semester of 2016). For the chapter 72 (iron & steel) they represented 1.62% (with a reduction of 5.00%) and for chapter 73 (articles of iron or steel) they represented 1.19% (increasing by 32.49%). In volume the chapter 71 represented only 0.015% (with a reduction of 0.15%), chapter 72 represents 8.29% (increasing by 8.13%) and chapter 73 0.84% with a decrease of 6.90%. Changes in the gold sector have nearly no impact in the trade in volume though they are significant in value while changes in iron & steel have an important impact in volume though far less in value. Furthermore the differences of evolution in value and volumes indicate changes in the composition of those exports.

Under these circumstances, probably a Switzerland-like approach should be carefully examined. EU and Switzerland concluded around 100 different agreements since long time. Switzerland is a small country in comparison to EU or even UK but has very strong commercial relation. Unlike UK it is member of the Schengen agreement. The population of Switzerland represents 12.6 % of the population of UK. The total trade with EU (X+M) represents 53.5 % of the trade of UK with EU; the imports in Switzerland of goods from EU represent 45% of the imports of UK from EU and their exports to the EU represent 68% of the UK exports of UK (according to Eurostat, year 2016). Considering its geographic position in the heart of the EU it is very difficult for that country to have standards deviating from EU standard. As Switzerland is even not a member of EEA (though member of the EFTA) it may not influence the EU legislation. Switzerland is not in customs Union with EU but has several customs agreements and a FTA. In the past in accordance with former EFTA agreements their legislation was aligned with the EC one in the chemical sector[69].

Though UK wouldn't be in customs union with EU and therefore can conclude FTA with any country it wants, it is not that simple to conclude around 60 agreements with the countries with which it has previous agreements (as a member of the EU), representing around 17% of its trade[70]. The trade aspect may have an importance influence on strategies of UK bases industries even if it is possible to maintain the 'UK REACH'[71] close to the 'EU REACH'.

Under the 'no agreement' approach the need to have new domestic laws replacing the EU regulation is essential. View from outside UK, the way the Parliament and other stakeholders will be consulted on so important piece of legislation for the future of UK is at least 'strange' despite of the obvious too short delays.

FTA agreement (enhanced or not) only

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[69] But I didn't analyse that question up to now. You may find the text of the Swiss Ordinance on the reduction of risks relating to the use of certain SVHC using the following link: https://www.admin.ch/opc/en/classified-compilation/20021520/index.html and the text of the Federal Act on the Protection against Dangerous Substances and Preparations at the following address: https://www.admin.ch/opc/en/classified-compilation/19995887/index.html

[70] For further details I recommend to read the 'Brexit: Trade in goods' published on 14 March of by the House of Lords and the debate that took place on 18 July or the information of the House of Commons 'Brexit: Trade aspects'.

[71] I know that, in addition in UK there are persons that are not in favour of a UK chemical legislation replicating the EU one. It would mean that even the approach of the Repeal Bill wouldn't be followed.

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In theory, under such FTA agreement special provisions for REACH (and some other regulation) could be adopted in order to maintain almost the present situation, including the participation of UK to the works of ECHA. Politically, however, I do not think that EU could agree such solution.

Ad hoc solution for REACH?

In a recent article published by Chemical Watch on 7 September the question of the creation of a UK agency was discussed. According to this article, Mr. Elliott said the best option would be "to continue to use the services provided by both the European Commission and ECHA". This approach makes sense in the case of an enhanced free trade agreement as proposed by the Prime Minister. (In the case of the EEA or EEA similar, this would be automatically the case. The logic beyond the 'Repeal Bill' would be to establish a British Agency but as already said this is not necessary very efficient and also not support by the CIA).

This approach seems to correspond to the UK Government approach but will most likely be considered as a 'pick-and-choose' and probably not be supported by the EU. I may suppose that the Commission will raise the question of the competence of the ECJ in that case. Furthermore I do not think that it could be acceptable if it is not part of the larger framework. Otherwise from a pure 'REACH' point of view this type of solution is surely a good alternative.

[72] But I didn't analyse that question up to now. You may find the text of the Swiss Ordinance on the reduction of risks relating to the use of certain SVHC using the following link: https://www.admin.ch/opc/en/classified-compilation/20021520/index.html and the text of the Federal Act on the Protection against Dangerous Substances and Preparations at the following address: https://www.admin.ch/opc/en/classified-compilation/19995887/index.html

[73] For further details I recommend to read the 'Brexit: Trade in goods' published on 14 March of by the House of Lords and the debate that took place on 18 July or the information of the House of Commons 'Brexit: Trade aspects'.

[74] I know that, in addition in UK there are persons that are not in favour of a UK chemical legislation replicating the EU one. It would mean that even the approach of the Repeal Bill wouldn't be followed.

Customs Union (without single market)

There is only one example of significant external customs union of EU: it is the case of Turkey[75]. It is not frictionless but, most likely it would be easier to solve remaining problems in the case of the relation between EU-UK considering the starting point.

The Customs Union create some constraints in negotiating agreements with third countries and requires a close approximation of legislation (included in the Customs Union Decision with Turkey). Turkey is an observer[76] in several EU committees.

Though the question is not crystal clear, the customs union will not solve the transitional question of the agreements of the EU with third countries. In that case, however, it will be an obligation for UK to conclude new agreements with all these preferential countries creating serious problems of human resources for UK => needs of important transitional period[77]! In any case, UK will have to apply the common external tariff, including the reduced rates applicable in the different FTA (even if UK, not having conclude yet an agreement with the concerned countries will not enjoy a reduced rate for its exports).

It is also important to remind that the customs unions are also based on several other principle including on the absence of non-trade measures. If, in the case of Turkey one has to foresee an approximation of laws (see Chapter IV of Decision 1/95 already mentioned) in the case of UK one should have provisions on non-deviation of laws (following, among others the approach of Article 9 to 11 of the same decision). Should UK want, nevertheless, to depart from EU rules, negotiations would be required before the adoptions of the said new rules.

By its partnership paper and confirmed by the position paper on Northern Ireland border, UK is now ready to consider, during a transitional period, the extension of the current customs union that exists between the EU Member States or to have something very similar.

If EU and UK wants to extend the current customs union, it will clearly be an '*area of direct relevance to the operations of the Customs Union*' (between the EU and Turkey). Consequently the provisions of Articles 55 and 56 of the Decision No 1/95 of the EC-Turkey Association Council on implementing the final phase of the Customs Union will be applicable.

Customs Union and Single market

This is the preferred option for the EU and most likely the best for the UK trade and business, at least until a new agreement will enter into force (avoiding adverse disruption of business and trade). The situation is not very different from being a member states including the contribution to the EU budget, the free circulation of workers and the competencies of the ECJ, but without the power to participate in the decisions taking. Nevertheless the EU Treaty are not limited to trade and the single market. Important other parts of the Treaties will

[75] Even if it is not perfect according to Professor P. Eeckhout already mentioned.
[76] Independently of its status of accessing country.
[77] This opinion is clearly not in line with Mrs May opinion expressed during its visit to Japan.

ceased to be applicable from the Brexit Date on this basis (like to Common Agricultural Policy or the Research & Innovation policy).

I may assume that this approach could be envisaged as a transitional solution only.

EEA-type[78] Agreement (without Customs Union)

I assume that an EEA-type agreement without free circulation of citizen and workers could be an option for UK but it is clearly excluded on the EU side on the basis of the Statement of 15 December 2016 already mentioned.

Up to now it seems it could be an option at least for a transitional period.

From my analysis there is no need, in that case, for UK to have already in place new EU regulations adopted in accordance to the Repeal Bill. Considering the huge efforts needed to implement the said bill before the Brexit Date, for me it is essential for UK to know the sooner possible if an EEA-type agreement could be envisaged for a transitional period. It is important to not under-evaluate however the complexity of that solution, considering the time constraint.

In my view this type of solution requires as well to have future relations based on a FTA and to have transitional measures until the said FTA is concluded.

It is difficult to evaluate the new burdens that would be introduced to allow the transitional measures to function.

No Brexit?[79]

This sometime appears in the British press or even some British politicians think it will be possible. No specific measure is foreseen to stop/cancel the current procedure. That possibility is discussed in the document prepared by IMCO Committee of the EP 'Legal Implication of Brexit'. (Under section 2.1, p.17 last sub-paragraph.)

What is true, however, is that Article 50 (5) allows UK to ask to re-join the EU but its application would be subject to the normal procedure to join the EU as defined by Article 49 of TEU.

[78] I speak about EEA-type agreement because, as such the EEA agreement does not foresee (Article 126) that it is applicable outside the EU and the EFTA countries. AS UK is anyway a contracting party of the Agreement, it should be easy, if there is a political will to modify this Article 126 and includes the UK (and define precisely to which territories it will be applicable). Clearly the context of the adoption of the Agreement was different: Austria, Finland and Sweden were not yet member of the EC; a possible extension of the EEA to other European countries was not ready and the Lisbon Treaty was far to be adopted. Therefor the question of withdrawal of a country of the EC was not at all relevant at that time.

[79] I fear that it will not means to come back to the situation prior to the referendum. First there are already economic impacts (a lot of money spent) and the agreement concluded by M. Cameron before the referendum is no more valid. Agencies will have also leave UK as well as several companies.

Statistical annex to Chapter 3

In this statistical annex I examine a little more in detail the structure of the trade for selected chapters of the Harmonised System. For the detailed description of the different chapter look at Regulation 2016/1821 on the tariff and statistical nomenclature and on the Common Customs Tariff.

I selected the chapters 27 to 39 (Mineral fuels …; Products of the chemical or allied industries; plastics and articles thereof) as well as the chapters 71 (gold …) 84 and 85 (Machinery and mechanical appliances …) and finally chapter 87 (vehicles other tan railway or tramway …) considering their importance in the trade of UK (and also Belgium).

The analysis covers the first semester of 2016 and the first 6 or 5 months of 2017 depending of the data available on Eurostat (on 7 September 2017).

During that period the value of the British Pound in Euro reduced significantly. The following graph present that evolution between September 2015 and August 2017.

Exchange rate British Pound in Euro from September 2015 until August 2017.



Share of the different chapters in the total of the trade

The Table 1 on next page presents the share of the different chapters in the total of the trade concerned. For the chapters 31 to 37 that have lower shares, they are aggregated as "other Chem"[80]

[80] The Excel file embedded at the end of this Annex includes the detailed figures of these chapters. It includes, under 4 different sheets, also figures of Belgium, for comparative purposes, not only because it is my own country but also because the trade structure is not that much different and the selected chapters represent up to 75.45% in the case of the Belgian exports to third countries during the first semester 2016. For BE, UK and EU(28) the

The table is divided in 2 sub-tables the upper one concerns exports and the lower part concerns imports. The left side is related to the trade with EU third countries (Extra) and the right side to the trade with the EU member states (Intra). For each side the trade of UK is compared with the global trade of the EU(28) and for each of them the first semester of 2016 is compared with the first 5 or 6 months of 2017.

Table 1: Share of the different chapter of the HS in the total of UK trade

Export

	Extra UK 2016	Extra UK 2017	Extra EU 2016	Extra EU 2017	Intra UK 2016	Intra UK 2017	Intra EU 2016	Intra EU 2017
Chapter	6 months	6 months	6 months	6 months	6 months	6 months	6 months	6 months
27	3.38%	5.98%	3.91%	5.26%	8.49%	10.44%	4.26%	5.21%
30	8.36%	7.90%	7.91%	8.14%	7.90%	7.89%	5.02%	4.96%
28	0.36%	0.34%	0.57%	0.59%	0.84%	0.62%	0.56%	0.57%
29	2.88%	2.09%	3.14%	2.80%	2.98%	2.87%	2.55%	2.57%
38	1.42%	1.21%	1.49%	1.51%	2.03%	1.78%	1.63%	1.62%
39	1.70%	1.56%	3.02%	3.03%	4.04%	4.03%	4.99%	4.99%
other Chem	2.06%	1.90%	3.19%	3.13%	2.06%	1.90%	3.19%	2.90%
71	9.23%	12.15%	3.05%	3.20%	1.79%	2.34%	0.78%	0.83%
84	18.13%	17.66%	16.96%	16.98%	11.48%	12.28%	12.54%	12.34%
85	6.26%	6.12%	8.62%	8.70%	6.80%	6.63%	9.72%	9.55%
87	12.76%	12.55%	11.53%	11.20%	13.19%	11.92%	13.76%	13.43%
Total above	66.54%	69.46%	63.39%	64.54%	61.60%	62.70%	59.00%	58.97%

Import

27	8.48%	13.35%	14.15%	18.33%	2.86%	3.35%	4.54%	5.45%
30	2.96%	2.58%	3.88%	3.66%	7.59%	8.04%	5.27%	5.30%
28	0.40%	0.48%	0.72%	0.69%	0.48%	0.47%	0.60%	0.59%
29	1.00%	1.18%	3.24%	3.11%	1.83%	2.08%	2.75%	2.76%
38	0.39%	0.40%	0.82%	0.81%	1.13%	1.23%	1.59%	1.63%
39	1.69%	1.86%	2.40%	2.25%	3.73%	3.87%	5.00%	4.99%
other Chem	1.09%	1.23%	1.34%	1.31%	2.96%	3.10%	3.01%	2.93%
71	20.22%	11.85%	5.55%	3.69%	1.77%	1.93%	0.85%	0.85%
84	14.02%	14.69%	12.12%	11.66%	11.90%	11.39%	12.26%	12.09%
85	9.58%	10.48%	12.18%	12.14%	8.54%	8.20%	9.55%	9.39%
87	3.64%	4.01%	4.69%	4.91%	20.53%	19.74%	14.26%	14.03%
Total above	63.47%	62.11%	61.09%	62.56%	63.32%	63.40%	59.68%	60.01%

minimum share of the selected chapters was of 57.63% in the case of the expeditions of Belgium to the rest of EU during the first 5 months of 2017.

On the export side, the share of the chapter 71, 84, 85 and 87 is clearly dominant both for UK and EU. It is less important in the internal trade. Chapter 71 (gold …) alone explains the increase between 2016 and 2017. The chapter 27 is quite important for UK in the internal (EU) trade. Chapter 39 (plastics) is less important in UK. Interesting also to note is the reduction of the share of dome chapter in the exports to third countries between 2016 and 2017 (chapters 28 to 39) and their higher share in the internal trade (Chapters 28, 29, 38, 39).

On the import side, most likely as UK is an oil producer, the share of imports is less significant than in the whole EU. There is no global significant difference in the share of the chapters selected within Internal and external trade nor significant difference between 2016 and 2017. This is no more the case when looking to the individual chapters. , in particular for the chapter 71! Introduction[81] of oils (chapter 27) are not very important in the case of UK. Introduction of pharmaceutical products (chapter 30) are, on the contrary more important in UK tan in the whole EU and even more compared with the imports. For the import side also the internal trade is relatively more important for several chapters of the chemical industry 29, 38, 39 and the 'Other chemicals).

Table 2: Part of internal trade in total trade for selected chapters

	Import				Export			
	Intra UK	Intra UK	Intra EU	Intra EU	Intra UK	Intra UK	Intra EU	Intra EU
	2016	2017	2016	2017	2016	2017	2016	2017
Chapter	6 months	6 months	6 months	6 months	6 months	6 months	6 months	6 months
27	26.18%	21.02%	36.67%	34.19%	70.15%	58.68%	66.81%	64.06%
30	72.99%	77.53%	71.02%	71.70%	46.97%	46.75%	53.96%	52.32%
28	56.10%	54.68%	59.91%	59.99 %	68.91%	63.37%	64.42%	63.73%
29	65.80%	65.53%	60.50%	60.63%	49.24%	55.12%	59.97%	62.33%
38	75.14%	76.67%	77.90%	77.82%	57.22%	57.50%	66.85%	65.97%
39	69.93%	69.53%	79.00%	79.48%	68.95%	69.90%	75.24%	74.79%
other Chem	74.01%	73.48%	80.20%	79.46%*	65.87%	65.52%	63.21%	62.41%*
71	8.43%	15.39%	21.72%	28.67%	15.42%	14.32%	32.05%	31.96%
84	47.19%	45.69%	64.63%	64.43%	37.24%	37.72%	57.67%	56.68%
85	48.43%	45.66%	58.60%	57.49%	50.44%	49.18%	67.50%	66.40%
87	85.60%	84.03%	84.60%	83.32%	49.20%	45.99%	68.75%	68.36%
Total	51.28%	52.07%	64.36%	63.61%	48.38%	47.65%	64.83%	64.30%

Globally the internal trade on export is significantly less important in UK than in the whole EU. It is also true for import but on a lower level. For chapter 28 the internal trade was however more important for UK in 2016. The same is valid for the 'other chemicals both in 2016 and 2017. The part of internal trade reduced between 2016 and 2017 with the exception of chapters29 (and 38 and 39 but there it was really marginal). On the import side there is a small

[81] I use the words introductions and expeditions for the internal trade and the words imports and exports for the trade with third countries.

increase of the global internal trade that is more important for chapter 30. On the contrary the share of introductions reduced for the chapter 27.

Table 3: Part of UK trade in the EU trade

	Import				Export			
	Extra UK 2016	Extra UK 2017	Intra UK 2016	Intra UK 2017	Extra UK 2016	Extra UK 2017	Intra UK 2016	Intra UK 2017
Chapter	6 months	6 months	6 months	6 months	6 months	6 months	6 months	6 months
27	9.96%	10.54%	6.10%	5.37%	9.69%	12.69%	11.31%	11.32%
30	12.67%	10.22%	13.97%	13.54%	11.84%	10.84%	8.94%	9.02%
28	9.12%	9.98%	7.80%	7.22%	6.91%	6.53%	8.46%	6.06%
29	5.14%	5.46%	6.46%	6.80%	10.26%	8.33%	8.65%	6.31%
38	8.01%	7.16%	6.86%	6.73%	10.70%	8.96%	7.10%	6.20%
39	11.71%	11.96%	7.23%	7.10%	6.30%	5.75%	4.60%	4.56%
other Chem	13.53%	13.67%	9.51%	9.58%	7.21%	6.75%	8.10%	7.75%
71	60.63%	46.49%	20.13%	23.12%	33.87%	42.43%	13.09%	15.81%
84	19.24%	18.28%	9.41%	8.53%	11.95%	11.61%	5.20%	5.60%
85	13.07%	12.67%	8.67%	7.99%	8.11%	7.86%	3.98%	3.92%
87	12.91%	11.83%	13.96%	12.73%	12.38%	12.48%	5.45%	5.00%
Total UK	16.63%	14.50%	9.69%	9.09%	11.18%	11.17%	5.69%	5.64%

The share of UK in the EU trade is significantly higher in the external trade than in the internal trade. It reduced on import and increase on export. It correspond to the expect result of a reduction of the value of the Pound compared to the Euro. Clearly also UK is a net importer (see next table) and therefore its share in imports and introductions is bigger than for exports and expeditions.

The reduction of the introductions is less significant and, in the case of the expeditions to EU there is even a very small reduction in value (but probably not in volume, as explained in the footnote 53). The trade of chapter 71 is clearly atypical[82] and gives probably a false image of the overall trade of UK (in the other tables).

As the population of UK represents 12.82 % of the total population it is clear that UK is not intensive in trade. Only the global imports are higher than the share of population. Expedition to the other MS represents less than one half of the population's share! With the exception of gold no chapter, only chapter 27, in 2017 (exports) the export side has a share in the EU trade exceeding the share in population.

[82] This is even more important in the case of Belgium. For example, its trade on diamond with India is so much important that this country is one of the major partners of Belgium? If you do not consider the chapter 71 India is losing a lot of places and have a share similar to its one with the whole EU.

The following table gave the orientation of the trade. The figures are obtained by dividing the balance of trade (defined as the difference between the exportations (X) and importations (M)) divided by the sum X + M. Its range is between -1 and + 1. -1 means that there are only imports/introductions and +1 that there are only exports/expeditions. The figures in red indicate therefore that UK is oriented to import.

Table 4: Trade index

	Extra UK 2016	Extra UK 2017	Extra EU 2016	Extra EU 2017	Intra UK 2016	Intra UK 2017	Intra EU 2016	Intra EU 2017
Chapter	6 months	6 months	6 months	6 months	6 months	6 months	6 months	6 months
27	-0.57	-0.48	-0.56	-0.55	0.29	0.35	n.s.	n.s.
30	0.32	0.41	0.35	0.38	-0.23	-0.06	n.s.	n.s.
28	-0.24	-0.25	-0.11	-0.08	0.03	-0.09	n.s.	n.s.
29	0.32	0.16	-0.01	-0.05	-0.01	-0.06	n.s.	n.s.
38	0.42	0.40	0.30	0.30	0.04	-0.03	n.s.	n.s.
39	-0.19	-0.21	0.12	0.15	-0.21	-0.20	n.s.	n.s.
other Chem	0.12	0.09	0.41	0.41	-0.07	-0.10	n.s.	n.s.
71	-0.53	-0.12	-0.28	-0.07	-0.24	-0.18	n.s.	n.s.
84	-0.06	-0.04	0.17	0.19	-0.26	-0.18	n.s.	n.s.
85	-0.38	-0.38	-0.16	-0.16	-0.35	-0.32	n.s.	n.s.
87	0.41	0.41	0.43	0.39	-0.44	-0.44	n.s.	n.s.
Total	-0.19	-0.13	0.01	0.00	-0.24	-0.13	n.s.	n.s.

n.s.: not significant. Logically one should have zeros for all positions but the value of introductions and expeditions are not the same (FOB as CIF) and do not always take place the same day.

The global orientation of UK to import is less important in the external trade than in internal trade. For both markets this orientation reduced significantly between 2016 and 2017. For the selected chapters, however, with the exception of chapter 27 they are all oriented to introductions during the year 2017.

In the chemical sectors, chapter 38 (miscellaneous chemical products) is the most oriented to export and to a larger extend that the EU average. Chapter 29 (organic chemicals) is also an important exporter and more important than the EU average. The orientation of the pharmaceutical products to exports increased between 2016 and 2017 and is now higher than the one of EU (28).

The general trend between 2016 and 2017 is coherent with the evolution of the British Pound but not all the chapters benefited of that evolution, notably the chapter 29.

The embedded Excel file here after provides more detailed information in its Table 8 including a comparison with Belgium.

Ann2toChap3.xlsx

Further information on the value of the Pound:

Exchange rate between the British Pound in American Dollar



This graph represent the evolution of the US Dollar in British Pound between the 26th September 2016 and 25th September 2017. One can see, during that period a relative reduction of the value of the US Dollar. Considering the importance of that value in the international trade, it had, of course, an incidence on the trade of UK but the effect was even more important for the countries of the Euro Zone.

Last month evolution of the British Pound in Euro

If the pound faced a significant reduction of its value expressed in Euro between the date the Prime Minister announced the general elections and the end of August (t the time I downloaded the trade information for analysis), in the meantime it recovered also significantly as shown in the next graph, most likely due the good recent trade performances of UK.



Balance of trade and interest of the parties: Comments on the intervention of Mr. Elphicke during the debate on the 'Repeal Bill' on 11 September 2017:

During the debate on the EU (withdrawal) Bill of 11 September at the House of Commons, Mr. Elphicke, MP of the constituency of Dover said: "*I looked, the European Union had a £100 billion surplus on trade in goods with the United Kingdom. If there were tariffs, European exports to Britain would be hit by £13 billion, whereas our exports to Europe would be hit by only £6 billion. That shows why it is in Europe's interest to do a free trade deal, and why it would be an economically illiterate act of self-harm by the European Union not to want to do a trade deal. If anything, a trade deal is more in the EU's economic interest than it is in ours. Those are the hard numbers, and that is where the House should be focusing*."

It is self-evident that, with a so important trade between UK and EU both parties have an interest to arrive to a trade agreement. The introduction of tariffs would have huge effects on both side but, in my view, it is false to think that because of the balance in favour of the EU, the latter would agree on any kind of trade agreement that would maintain zero tariffs.

The 'trade benefit' is not simply a question of the amount of the bill to be paid. First a bill of £ 6 billion for UK is a higher figure by inhabitant of UK than the £ 13 billion for the EU (2019) despite the fact that the intensity of expeditions of UK is lower than the average of EU (2019).

But, furthermore the trade is not just a question of balance. Of course the EU as a negative balance with many countries of the Middle East. It does not means that we do not have interest with that trade. Of course the EU has also a negative balance in trade with China. It does not means that it is more important to negotiate an agreement with China than to find a reasonable agreement between UK and EU.

It is necessary as well to look more in detail the structure of the trade flows. The trade in intermediate goods (very important in the car sector) is more sensitive than the trade on consumer goods where it is normally easier to find alternatives (new customers). It is also very

important to consider the Added value of the trade as well as the importance of the intra-enterprise trade. This one is very important in the pharmaceutical and chemical products.

Finally, the global share of the exports to EU in the total exports of UK is far more important than the share of the total expeditions of EU to UK in the total export trade of the EU. It is also worthwhile to remember that the import taxes will also be paid by the UK consumers. It will not be as easy as Mr. Elphicke think to substitute the imports from EU by imports from third country of the same quality for the same price as present in Euro and probably even more difficult when expressed in pounds.

In 2016, according to Eurostat, the share of the exports of UK to EU, in € represented 47.45% of the total of the exports of UK (50.54% for imports). The share of UK in the total exports of Ireland and Cyprus are quite important (12.73% and 11.95% respectively) and Ireland is also very depending of its imports from UK (28.69%). The Netherlands and Belgium depends significantly of the expeditions to UK (Respectively 9.49% and 8.90%) though a part is coming from other EU Member States. They are followed by Spain (7.59%), Germany (7.13%), Portugal (7.04%), France (7.00%), Poland (6.59%) and Denmark (6.49%). All the other Member States of a share of UK lower than the EU average (6.48%). In average the share of introductions from UK in EU is only 5.90% therefore few countries are significantly depending of the introduction from UK. The most import, after Ireland are Malta (5.93%) and Cyprus (5.50%).

Further reading on the economic aspects of the Brexit:

On the 11 September, the Institute for Government published another interesting studies on the effects of the Brexit on customs matters. This study can be downloaded on the following web page: https://www.instituteforgovernment.org.uk/publications/implementing-brexit-customs-september-2017. This report underlined also the need to be ready not only in UK but also on the EU Side. This was mentioned also by Lord Stirup during the debate in the House of Lords on the 18 July 'As a retired Belgian civil servant wrote to me, "*Our system may indeed turn out to be wonderful, but in all too many instances the ones on the other side are not*". This is an area that requires a great deal of further thought.'

On the 20th September, the Faculty of Business and KUL (Flemish University of Leuven) published an interesting study on the effect of the different options of the Brexit in UK, EU and also in Belgium. This study, called 'Global Value Chains, Trade Shocks and Jobs: An application to Brexit' can be found on the following page: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3039028 . According to that study, among others UK could lose between 140,000 and 526,000 jobs and the EU-27 between 284,000 and 1,200,000 jobs. For Belgium alone the losses can be estimated between 10,000 and 42,000!

Annex

Biography of J.-P. Feyaerts

Mister Feyaerts was the head of the Belgian REACH helpdesk from its creation until his retirement end of October last year. He was also member of the Belgian negotiation team on REACH from July 2005, member of the SEAC from its creation during 6 years. He participate in the Commission's REACH Committee for some files and represented also Belgium in the working group of the Enterprise Policy Group on REACH & CLP organised by DG Growth.

Mr. Feyaerts was working in the Federal Ministry of Economy, being in charge of the Basic Industries. He participated, as sherpa, in the High Level Group on the Competitiveness of the European Chemical Industry. Between 1989 and 1999 he worked in the present DG Growth under three different contracts during 8 ½ year in the sector of the processed agricultural products including as temporary Principal Administrator with Gwenole Cozigou as his last Head of Unit. During that period he wrote, supervised or participated in the writing of around 100 regulations and decisions* (not including the periodical regulations); he was involved in the preparation of the EC offer and Turkish offer to the GATT on the processed agricultural products during the Uruguay Round. He managed a budget of around 570 million Euros. He made short missions in Poland and Turkey on the approximation of their legislation to the EU trade mechanisms of processed agricultural products. From January 2001 until June 2005, he was a pre-accession advisor and team leader of an OLAF' ('Office de la Lutte Anti-Fraude) Phare project on the protection of the EU financial interests in Poland. From 2014 to 2016 he was Vice-Chair of the OECD Steel Committee and spokesman of Belgium in the Council Working Party for the Conflict Mineral Regulation. He was also involved in the development of the Federal Strategy on circular economy. He contributed as well to several TAIEX trainings.

Mr. Feyaerts made studies of architect engineer, economy (public economy), administrative and political sciences and philosophy at the French Catholic University of Leuven (Belgium) and foreign trade (Institute Lucien Cooremans, Brussels). He is still in regular contact with his former administration (as external expert) in the follow-up of some of his former tasks and on the Brexit.

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* Among others: Regulations (EC) 3448/93; 944/92 (food aid); 3223/93; 1222/94; 1223/94; 1294/94; Protocol 3 of the European agreements with Poland, Hungary and CSFR contribution to the regulations related to the trade mechanisms for agricultural products , to the Decision 1/95 EC-Turkey (Customs Union: articles 17 to 23 and annexes 1 to 6) …

Norwegian REACH law (in French)

Norwegian REACH in French.docx

The Presentation

Presentation (26 Sept).pdf