



House of Commons  
Environmental Audit Committee

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# The Future of Chemicals Regulation after the EU Referendum

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**Eleventh Report of Session 2016–17**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
to be printed 25 April 2017*

## Environmental Audit Committee

The Environmental Audit Committee is appointed by the House of Commons to consider to what extent the policies and programmes of government departments and non-departmental public bodies contribute to environmental protection and sustainable development; to audit their performance against such targets as may be set for them by Her Majesty's Ministers; and to report thereon to the House.

### Current membership

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[Mr Peter Lilley MP](#) (*Conservative, Hitchin and Harpenden*)

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[Kerry McCarthy MP](#) (*Labour, Bristol East*)

[John Mc Nally MP](#) (*Scottish National Party, Falkirk*)

[Scott Mann MP](#) (*Conservative, North Cornwall*)

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[Joan Ryan MP](#) (*Labour, Enfield North*)

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### Powers

The constitution and powers are set out in House of Commons Standing Orders, principally in SO No 152A. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

Committee reports are published on the Committee's website at [www.parliament.uk/eacom](http://www.parliament.uk/eacom) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

### Committee staff

The current staff of the Committee are David Slater (Clerk), Lauren Boyer (Second Clerk), Tom Leveridge (Senior Committee Specialist), Tom Glithero (Committee Specialist), Emily Pursell (Committee Researcher), Ameet Chudasama (Senior Committee Assistant), Baris Tufekci (Committee Assistant), and Shagufta Hailes (Media Officer)

### Contacts

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# The Future of Chemicals Regulation after the EU Referendum

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1. This report summarises the findings of the Environmental Audit Committee's inquiry into The Future of Chemicals Regulation following the European Referendum. This is our second report examining areas where the Government must ensure the environment is considered during negotiations to leave the EU. The inquiry examined the implications of leaving the EU for chemicals regulation using the REACH (Registration, Evaluation and Authorisation of Chemicals) regulation as a case study. REACH came into force in June 2007. Its aims include providing a high level of protection of human health and the environment from the use of chemicals.<sup>1</sup> The terms of reference for the inquiry can be found on our website.<sup>2</sup> The announcement of a general election to take place in June 2017 has prevented preparation of a full report, however we have identified several important messages for the Government.

2. The chemicals industry is the second largest exporter to the EU after the automotive industry<sup>3</sup> and the second biggest manufacturing industry overall, with £10bn Gross Value Added, annual turnover of £32bn and total exports of £26bn.<sup>4</sup> The products made by the industry appear across the economy, with a wide variety of downstream users responding to our inquiry, including from the automotive,<sup>5</sup> technology,<sup>6</sup> energy<sup>7</sup> and aerospace<sup>8</sup> sectors. It is crucial that the EU negotiations and any future domestic legislative framework allow the UK chemicals industry to continue to provide value to the economy whilst also protecting public health and the environment.

3. We held three public hearings with academics, environmental groups, government agencies and the Parliamentary Under-Secretary of State at the Department for Environment, Food and Rural Affairs (DEFRA). Members of the Committee also undertook a fact-finding visit to Washington DC to examine the American system of chemicals regulation. We received 69 submissions of written evidence, which are published on our website.<sup>9</sup> A full list of witnesses can be found at the end of this report. We are grateful to all those who gave evidence to this inquiry. We would also like to thank our specialist adviser, Meg Postle, Director at Risk & Policy Analysts Ltd (RPA), for her assistance.<sup>10</sup>

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1 Health and Safety Executive website, <http://www.hse.gov.uk/reach/whatisreach.htm>

2 The terms of reference are found here: <http://www.parliament.uk/business/committees/committees-a-z/commons-select/environmental-audit-committee/news-parliament-2015/future-chemicals-regulation-inquiry-launch-16-17/>

3 'The United Kingdom's exit from, and new partnership with, the European Union' White Paper, available here: <https://www.gov.uk/government/publications/the-united-kingdoms-exit-from-and-new-partnership-with-the-european-union-white-paper>

4 DEFRA (ECR0067)

5 Society of Motor Manufacturers and Traders (ECR0071)

6 TechUK (ECR0049)

7 Energy UK (ECR0030)

8 ADS Group (ECR0056)

9 Written and oral evidence is found on our website here: <http://www.parliament.uk/business/committees/committees-a-z/commons-select/environmental-audit-committee/inquiries/parliament-2015/inquiry2/publications/>

10 Declaration of interests: Ms Postle is an active Director of a consultancy that provides REACH related services, as well as other services to UK, EU and more global clients. Ms Postle reports that the nature of RPA's work means that RPA has no clients where acting as an advisor to the Committee would represent a conflict of interest.

4. *Our key findings are:*

- *The chemicals regulation framework established by the EU through REACH would be difficult to transpose directly into UK law;*
- *Companies face significant uncertainty over the validity of current REACH registrations after the UK leaves the EU: the Government must clarify their position on the future regulatory framework as a matter of urgency;*
- *In deciding the future of the UK's relationship with the EU's single market for chemicals, the Government should take a pragmatic approach. The most important element of REACH, which the Government should seek to remain involved in as a minimum, is the registration process for chemicals;*
- *Establishing a fully stand-alone system of chemicals regulation for the UK is likely to be expensive for both the taxpayer and for industry;*
- *The experiences of the US as it introduces an improved system of chemicals regulation could be useful for the Government when planning the UK's approach.*

*The chemicals regulation framework established by the EU through REACH would be difficult to transpose directly into UK law*

5. REACH comprises EU Regulations that apply directly to the UK. The Environmental Law Association told us that, because of the way that REACH operates and the terminology used in the Regulation, writing the REACH regulations into UK law could not sensibly be done simply by having a line in the “Great Repeal Bill” (or one of its resulting statutory instruments) deeming REACH to apply in the UK. REACH was written from the perspective of participants being within the EU, with much of it also relating to Member State co-operation and mutual obligations, oversight and controls, and freedom of movement of products.<sup>11</sup>

6. An important part of the REACH framework is knowledge sharing: the registration approach requires that companies submit a joint registration where they wish to manufacture or import the same chemical as another company operating in the EU, and provides mechanisms by which companies can share knowledge and costs. This allows such companies and government to benefit from economies of scale when carrying out chemicals regulation. A stand-alone UK system would not benefit from these economies of scale.<sup>12</sup>

*Companies face significant uncertainty over the validity of current REACH registrations after the UK leaves the EU: the Government must clarify their position on the future regulatory framework as a matter of urgency*

7. A separate regulatory regime would mean that companies trading in both the EU and the UK would incur costs relating to both systems. This is of particular concern to industry due to the significant costs that will have already been incurred through registering with

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11 Environmental Law Association ([ECR0062](#))

12 The importance of knowledge sharing was discussed by several witnesses, for example Harvey Bradshaw of the Environment Agency (Q162), Nigel Haigh OBE ([ECR0003](#)) and Chemical Legislations Professionals Ltd ([ECR0039](#))

REACH by the time we leave the EU. The deadline for registering chemicals with REACH is 31 May 2018, by which time UK companies will have spent an estimated £250m on registrations.<sup>13</sup> It is unclear whether these registrations will remain valid once the UK leaves the EU in 2019.

8. We heard that the ongoing uncertainty over the status of REACH registrations may already be having an impact on long-term investment decisions by companies. If the UK is no longer recognised within REACH, EU customers may choose an alternative supplier rather than face the additional cost burden of registering imported chemicals themselves.<sup>14</sup> Both the Chemical Industries Association and the Chemical Business Association indicated that a sizable proportion of their members are already considering moving operations out of the UK in order to preserve their European business, with 20% of the 126 companies represented by the Chemical Business Association investigating moves into EU countries such as Ireland.<sup>15</sup>

*In deciding the future of the UK's relationship with the EU's single market for chemicals, the Government should take a pragmatic approach. The most important element of REACH, which the Government should seek to remain involved in as a minimum, is the registration process for chemicals*

9. Most of our respondents, from both environmental and industry perspectives, wanted to stay as closely aligned to REACH as possible. For example, in October 2016 techUK published the results of a survey of industry groups, concluding that:

Despite ongoing concerns around the complexity and burden of REACH, the majority of downstream users of chemicals want REACH to stay. Access to the single market remains the overriding concern of businesses.<sup>16</sup>

10. Our visit to Washington DC provided an illustration of the benefits of the EU-style approach in a different jurisdiction: until recently the US lacked an effective chemicals regulation system at the federal level. Increased awareness of the potential dangers of some chemicals led individual states and even some retail companies to introduce their own regulations. Chemicals companies ultimately agreed to participate in the development of a new federal law, the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to update the 1976 Toxic Substances Control Act (TSCA) and provide consistent regulation across the whole US. This was signed into law in June 2016. It is believed by US legislators and campaigners that this will lead to significant cost savings to industry, as well as improving regulatory standards in many areas. Similarly, companies in the UK wish to be able to continue to trade with the EU without having to comply with two different regulatory regimes.

11. The most important component of the REACH system in ensuring access to the market is the registration process, which requires the registration of all chemical substances sold within the EU in quantities greater than 1 tonne.<sup>17</sup> We believe that, as

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13 Calculations by the inquiry Specialist Adviser

14 Chemical Industries Association ([ECR0025](#))

15 Q61 (Douglas Leech, Chemical Business Association and Nishma Patel, Chemical Industries Association)

16 [Initial techUK views on chemical legislation after EU exit](#), techUK, October 2016

17 Many of our witnesses pointed to the importance of registration in relation to market access, for example Dr Michael Warhurst of ChemTrust (Q2), Dr Apolline Roger (Q4), Elizabeth Shepherd of EverSheds LLP (Q12), and Mike Murray of ABPI (Q95)

a minimum, the UK should negotiate to remain a participant in this system, including paying for access if necessary. This would allow UK companies to place products onto both the UK and the EU markets without the need to generate additional testing data or incurring additional costs. Continuing to share data with the EU would allow the UK to decide whether to follow the regulatory decisions made through REACH, or whether it wishes to take a different approach. Any alternative approach which involved lower environmental or health standards than the EU would not only expose UK consumers to greater risks, but would subject industry to the additional burdens of complying with two different sets of regulation.

*Establishing a fully stand-alone system of chemicals regulation for the UK is likely to be expensive for both the taxpayer and for industry*

12. The Government told us that it is considering different scenarios for the future of chemicals regulation and the resources necessary to deliver them.<sup>18</sup> The Government did not provide us with detail of their scenario planning, although they did admit that the cost of taking on the roles currently provided by the European Chemicals Agency could be in the tens of millions of pounds.<sup>19</sup> The Government has ruled out remaining fully involved in REACH, telling us:

You will be aware of the principles the Prime Minister set out. We are not going to be part of the single market and REACH is a single market mechanism. It is the access to the single market that really matters.<sup>20</sup>

However, maintaining access to the single market without membership of REACH will place costs and red tape burdens on UK businesses.

13. CHEM Trust provided us with examples of the costs which would have to be considered by Government in establishing a stand-alone system, telling us that it would have to include the impact of losing economies of scale and the costs of establishing an IT system for any new UK regulatory approach, particularly for data sharing between companies.<sup>21</sup> Julie Girling MEP reported that a recent study conducted by the European Parliament's Policy Department estimated that replacing ECHA with individual national chemicals legislation could cost up to €224 million in administrative costs across the EU: it is unclear what proportion of this would be applicable to the UK.<sup>22</sup>

*The experiences of the US as it introduces an improved system of chemicals regulation could be valuable for the Government when planning the UK's approach*

14. During this inquiry the Government indicated that it had no intention to align the future UK system of chemicals regulation with the US rather than the EU.<sup>23</sup> We welcome this approach, as aligning to the US would require significant changes to the regulatory environment, causing disruption which would risk damage to the UK environment. However during our visit to Washington DC we learned that the US is in the process of

18 Q205 (Gabrielle Edwards, Defra)

19 Q264 (Gabrielle Edwards, Defra)

20 Q182 (Dr Thérèse Coffey MP)

21 CHEM Trust ([ECR0015](#))

22 Julie Girling MEP ([ECR0036](#))

23 Q274 (Gabrielle Edwards, Defra)

updating its federal chemicals regulations following the introduction of new legislation in June 2016. Federal agencies are currently developing their new approach to the assessment and regulation of chemicals, and the experiences of the US in developing its own system may prove useful to the UK should it decide to establish its own distinct system.

# Formal Minutes

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**Tuesday 25 April 2017**

Members present.

Mary Creagh, in the Chair:

Peter Aldous	Scott Mann
John Mc Nally	Dr Matthew Offord

Draft Report (*The Future of Chemicals Regulation after the EU Referendum*), proposed by the Chair, brought up and read.

Paragraphs 1 to 14 read and agreed to.

*Resolved*, That the Report be the Eleventh Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

*[The Committee adjourned]*

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Tuesday 7 February 2017

*Question number*

**Dr Apolline Roger**, University of Sheffield, **Dr Michael Warhurst**, Executive Director, CHEM Trust, and **Elizabeth Shepherd**, Partner, Eversheds LLP

[Q1–35](#)

### Tuesday 21 February 2017

**Dr Camilla Alexander-White**, Programme Manager, Environment & Regulation, Royal Society of Chemistry, **Nishma Patel**, Chemicals Policy Director, Chemical Industries Association, and **Douglas Leech**, Technical Director, Chemical Business Association

[Q36–84](#)

**Susanne Baker**, Head of Programme, Environment and Compliance at techUK, and **Mike Murray**, Head of Quality and Environmental Standards, the Association of the British Pharmaceutical Industry

[Q85–116](#)

### Tuesday 7 March 2017

**Andreas Herdina**, Director of Co-operation, European Chemicals Agency (ECHA), **Harvey Bradshaw**, Executive Director for Environment and Business, Environment Agency, and **Dave Bench**, Director of Chemicals Regulation Division, Health and Safety Executive

[Q117–178](#)

**Dr Thérèse Coffey MP**, Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs, and **Gabrielle Edwards**, Deputy Director EU Environment, Department for Environment, Food and Rural Affairs

[Q179–291](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

ECR numbers are generated by the evidence processing system and so may not be complete.

- 1 ABHI ([ECR0014](#))
- 2 ADS Group ([ECR0056](#))
- 3 Allen & Overy LLP ([ECR0054](#))
- 4 Alliance for Cancer Prevention ([ECR0053](#))
- 5 Alliance of Chemical Associations ([ECR0033](#))
- 6 Association of the British Pharmaceutical Industry (ABPI) ([ECR0063](#))
- 7 BioIndustry Association ([ECR0032](#))
- 8 Breast Cancer UK ([ECR0047](#))
- 9 British Ceramic Confederation ([ECR0006](#))
- 10 British Coatings Federation ([ECR0034](#))
- 11 British Plastics Federation ([ECR0038](#))
- 12 CalliChem Consulting ([ECR0057](#))
- 13 CHEM Trust ([ECR0015](#))
- 14 Chemical Business Association ([ECR0016](#))
- 15 Chemical Hazards Communication Society ([ECR0044](#))
- 16 Chemical Industries Association ([ECR0025](#))
- 17 Chemical Legislation Professionals Ltd ([ECR0039](#))
- 18 Chemical Regulations Self Help Group ([ECR0022](#))
- 19 CJV Consulting Ltd ([ECR0011](#))
- 20 CLEAPSS ([ECR0020](#))
- 21 Crop Protection Association ([ECR0070](#))
- 22 Cruelty Free International ([ECR0010](#))
- 23 CTPA ([ECR0031](#))
- 24 Dane Color UK Ltd. ([ECR0009](#))
- 25 DEFRA ([ECR0067](#))
- 26 Dr Andrew Ross Brown ([ECR0008](#))
- 27 Dr Apolline Roger ([ECR0059](#))
- 28 Dr Rosemary Waring ([ECR0012](#))
- 29 EEF ([ECR0045](#))
- 30 Eli Lilly ([ECR0043](#))
- 31 Energy UK ([ECR0030](#))
- 32 European Environmental Bureau (EEB) ([ECR0026](#))
- 33 European Oilfield Speciality Chemicals Association ([ECR0037](#))

- 34 Fidra ([ECR0017](#))
- 35 Fragrance Oils (International) Limited ([ECR0013](#))
- 36 GAMBICA Ltd and BEAMA Ltd ([ECR0050](#))
- 37 Greenpeace ([ECR0028](#))
- 38 INOVYN Chlorvinyls Limited ([ECR0029](#))
- 39 Institution of Chemical Engineers ([ECR0065](#))
- 40 Johnson Matthey Plc ([ECR0069](#))
- 41 Julie Girling ([ECR0036](#))
- 42 K&H ([ECR0051](#))
- 43 Merck KGaA ([ECR0035](#))
- 44 Mr Hugh Roberts ([ECR0021](#))
- 45 Mr Jean-Pierre FEYAERTS ([ECR0072](#))
- 46 Mr Nigel Haigh ([ECR0003](#))
- 47 Mr William MacDougall ([ECR0002](#))
- 48 Mrs Christine McAlinden ([ECR0042](#))
- 49 MSL ([ECR0064](#))
- 50 National Chemical Emergency Centre ([ECR0068](#))
- 51 Pesticide Action Network UK ([ECR0018](#))
- 52 PETA International Science Consortium Ltd. ([ECR0058](#))
- 53 Phillips 66 Limited ([ECR0073](#))
- 54 PICON Ltd ([ECR0023](#))
- 55 REACH Cross Sector Group ([ECR0052](#))
- 56 REACHLaw Ltd ([ECR0024](#))
- 57 RH & RW Clutton ([ECR0007](#))
- 58 Royal Society of Chemistry ([ECR0027](#))
- 59 Shrieve Products International ([ECR0019](#))
- 60 Society of Motor Manufacturers and Traders (SMMT) ([ECR0071](#))
- 61 techUK ([ECR0049](#))
- 62 The Cancer Prevention & Education Society ([ECR0004](#))
- 63 The REACH Centre ([ECR0055](#))
- 64 The Royal Society ([ECR0061](#))
- 65 UK Environmental Law Association ([ECR0062](#))
- 66 UK Petroleum Industry Association ([ECR0060](#))
- 67 United Kingdom Lubricants Association ([ECR0048](#))
- 68 Which? ([ECR0040](#))
- 69 Wildlife and Countryside Link - Blueprint for Water ([ECR0041](#))

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2016–17

First Report	Soil health	HC 180 (HC 650)
Second Report	Flooding: Cooperation across Government	HC 183 (HC 645)
Third Report	Environmental impact of microplastics	HC 179 (HC 802)
Fourth Report	Sustainability in the Department for Transport	HC 184 (HC 819)
Fifth Report	Sustainability and the HM Treasury	HC 181
Sixth Report	The Future of the Natural Environment after the EU Referendum	HC 599
Seventh Report	The Airports Commission Report Follow up: Carbon Emissions, Air Quality and Noise	HC 840
Eighth Report	Sustainability and HM Treasury: Government's Response to the Committee's Fifth Report	HC 1049
Ninth Report	Sustainable development goals in the UK	HC 596
Tenth Report	Marine Protected Areas Revisited	HC 597
First Special Report	EU and UK Environmental Policy: Government Response to the Committee's Third Report of Session 2015–16	HC 644
Second Special Report	Flooding: Cooperation across Government: Government Response to the Committee's Second Report of Session 2016–17	HC 645
Third Special Report	Soil Health: Government Response to the Committee's First Report of Session 2016–17	HC 650
Fourth Special Report	Sustainability in the Department for Transport: Government Response to the Committee's Third Report of Session 2016–17	HC 819
Fifth Special Report	Environmental impact of microplastics: Government Response to the Committee's Fourth Report of Session 2016–17	HC 802

**Session 2015–16**

First Report	The Airports Commission Report: Carbon Emissions, Air Quality and Noise	HC 389
Second Report	The Future of the Green Investment Bank	HC 536
Third Report	EU and UK Environmental Policy	HC 537 (HC 644, 2016–17)
First Special Report	Local Nature Partnerships: Government Response to the Committee's Twelfth Report of Session 2014–15	HC 377
Second Special Report	Climate change adaptation: Government Response to the Committee's Tenth Report of Session 2014–15	HC 590