Introduction

Industrially-produced chemicals form an important industry, and chemical feedstocks are vital to the products and conveniences of the wider economy and modern society. According to Scottish Enterprise, Scotland has around 240 chemicals companies employing roughly 11,000 people.

The European Union is an important market for the chemicals sector. Almost two-thirds (59%, worth £3.4 billion) of the ‘refined petroleum and chemical products’ sector’s exports from Scotland went to the EU in 2018. This sector is more reliant on EU exports than any other in the Scottish Government’s export statistics’ broad groupings.

The key issues raised by BASF Limited at this point in the Brexit process relate to—

- regulatory cooperation; and
- the costs of moving from EU-wide chemicals regulation to a UK regime.

BASF’s UK regulatory affairs manager gave oral evidence to the House of Commons Committee on the Future Relationship with the European Union on 30 September.

Other issues raised by the UK Chemicals Industries Association include—

- market access issues such as tariffs, rules of origin and customs procedures, and
- free movement of qualified personnel.
How are chemicals currently regulated in the EU

The central piece of EU chemicals legislation is called REACH, (Registration, Evaluation, Authorisation and Restriction of Chemicals). Under REACH, companies who manufacture or import chemicals into the EU are required to register substantial information demonstrating how that substance can be safely used. Substances can be banned if their risks are unmanageable and specific uses can be banned or controlled. The European Chemicals Agency (ECHA) is the lead body responsible for implementing the framework. The Health and Safety Executive (HSE) is the UK’s national authority and enforces the rules in Scotland, along with the Scottish Environment Protection Agency (SEPA) and local authorities.

Regulatory changes and cooperation

In a joint briefing published in May 2020, the UK and European chemicals industry bodies stated—

“Whatever shape the future relationship may eventually take, first and foremost we are urging negotiators to ensure that the chemicals regulatory systems of the EU-27 and the UK remain highly aligned and going beyond existing cooperation agreements between [the European Chemicals Agency] and some non-EU countries.”

In recent written evidence to the House of Commons, BASF Limited agreed it would be best for the EU/UK chemical sectors for the UK to remain part of the EU-REACH framework with access to the European Chemicals Agency (ECHA). While this was the negotiating position of the UK Government in 2018, BASF acknowledge the “change in political position in the new government” to not seek this level of participation in EU structures. BASF stated—

“a secondary position would be the EU & UK agree a dynamic data and information sharing mechanism with respect to dossier contents submitted and regulatory processes in both jurisdictions.”

This approach is reflected in the current UK government’s negotiating objectives. However there is little public information on the prospect of this cooperation mechanism forming part of a trade deal, should one be agreed.

Costs to business of moving to a UK regime

While some cooperation mechanisms may be agreed before the end of the transition period, a new UK chemicals regulation regime is still required. The UK system will be similar in many respects, but the UK government explains that—

“Although both the UK and EU will operate REACH frameworks, the two systems will not be linked in any way. This means that companies wishing to retain access to the UK market will be required to notify and submit registration data to the Health and Safety Executive within given submission deadlines to confirm the registrations and ensure compliance with UK REACH.”
Chemicals businesses have highlighted the costs of this change in the absence of a data and information sharing mechanism. For example, in evidence to the House of Commons, BASF outline the consequences for its UK business estimating the change will cost £70m in addition to previous costs entailed with EU REACH compliance and that importing some products into the UK may be economically unviable. Answering a parliamentary question on 1 October on the chemical industry’s estimate that the immediate cost of separate REACH regulatory regimes without a comprehensive regulatory cooperation agreement is expected to be over £1 billion, the Chancellor of the Duchy of Lancaster, Michael Gove, said—

“It is an inevitable consequence of leaving the European Union single market and customs union and freeing ourselves from the jurisdiction of the Court of Justice of the European Union that we have to have our own regulatory systems in place. They will enable us to be competitive and to take advantage of increased autonomy and independence in the future. One of the great prizes of leaving the European Union is that, when it comes to life sciences and other areas, we will be freed from the often anti-science and anti-innovation approach that the EU has had hitherto”.

In a written answer on 8 September, the UK government explained its approach to UK REACH and its recent deadline extension to address business concerns. Full guidance is available from the Department for Environment, Food & Rural Affairs website. UK REACH is being implemented by various iterations of regulations at a UK level, engaging a complex mixture of reserved and devolved competence. The overall picture is set out in the latest notification to the Scottish Parliament on 28 September.

**Tariffs, rules of origin and customs procedures**

In their joint briefing published in May 2020, the UK and European chemicals industry bodies stated—

“Chemicals are traded via complex value chains and may cross the EU-27 and UK borders several times, either in the form of final chemical products or integrated in (intermediate) products made with chemicals (e.g. car parts). The imposition of tariffs would quickly translate into additional exponential costs for the chemical industry.”

They are therefore calling for a trade deal to facilitate the tariff and quota free trade, the elimination of trade distorting subsidies, simplified rules of origin and harmonised and simplified customs procedures.

**Access to skilled labour**

In their joint briefing published in May 2020, the UK and European chemicals industry bodies say it is “typical to find highly skilled people of many nationalities working in chemical plants in the UK, EU27 or across the globe”. They call for the continued free movement of skilled labour between the EU27 and the UK, given skill shortages.
Sectoral Briefing: Energy

Context

The 2015 European Union energy union strategy (COM/2015/080), aims to build an energy union “that gives EU consumers - households and businesses - secure, sustainable, competitive and affordable energy”. At the time of the strategy publication, the EU was the biggest energy importer in the world - with, for example 94% of transport being reliant on oil, and 90% of that amount being imported. Markets, and access to them are critical for the energy system, but it is worth noting that this system is very complex, with electricity, energy for transport, and energy for heating being three vital components – these have variable types of supply chains. At EU level, the energy union is built on safety, solidarity and trust - diversifying Europe's sources of energy and ensuring energy security through solidarity and cooperation between EU countries; A fully integrated internal energy market - enabling the free flow of energy through the EU through adequate infrastructure and without technical or regulatory barriers; Energy efficiency – improved energy efficiency to reduce dependence on energy imports, lower emissions, and drive jobs and growth; Climate action, decarbonising the economy - the EU is committed to a quick ratification of the Paris Agreement and to retaining its leadership in the area of renewable energy; and Research, innovation and competitiveness - supporting breakthroughs in low-carbon and clean energy technologies by prioritising research and innovation to drive the energy transition and improve competitiveness.

The 2020 state of the energy union report was published on 14 October 2020. The report considers the energy union’s contribution to climate goals and reports against the five factors outlined above. It also signposts the ‘NextGenerationEU’ recovery plan which is designed to support EU countries through a number of EU funding programmes. The Regulation on the governance of the energy union and climate action (EU)2018/1999 entered into force on 24 December 2018 as part of the Clean energy for all Europeans package.

1 https://ec.europa.eu/energy/topics/energy-strategy/energy-union_en
As regards electricity, Great Britain has the capability to import through 4 interconnectors. According to the regulator Ofgem\(^2\) “they link us to France, Ireland, the Netherlands and Northern Ireland. These links, totalling 4 gigawatts (GW), represent around 5% of our existing electricity generation capacity” and “interconnectors can offer significant benefits for consumers. They can help to: lower electricity supply prices, lower the cost of delivering security of supply, and support the decarbonisation of energy supplies”.

**Brexit**

The SSE submission to the committee outlines that for a domestic electricity generation, transmission and supply company, the “immediate priority has been to continue to deliver on its commitment to play its part in maintaining security of supply and understand how the decision to leave the EU may impact its operational environment”. SSE highlight four key issues in this regard:

1. **Security of supply** – whilst regulation of security of supply sits elsewhere, SSE has a key role in outage management, winter demand and interconnector stability.

2. **Supply chain** – SSE has carried out continuous audit work on its supply chains and potential impact of Brexit. This monitoring continues to ensure access to stock and emergency stocks are ringfenced.

3. **Carbon pricing** – an effective carbon price is vital to delivering net-zero ambitions. SSE supported the UK staying in the EU Emissions Trading Scheme, but as that is no longer viable, supports a linkage agreement between the UK ETS and the EU ETS.

4. **Renewable Energy Guarantees of Origin (REGOs)** – SSE state “EU laws relating to the promotion of the use of energy from renewable sources and energy efficiency generally will no longer be applicable in the UK from the end of the transition period. Unless a trade agreement is reached between the UK and EU, guarantees of origin published by designated bodies in the UK will no longer be recognised by the EU Member States from 1 January 2021.

On workforce, SSE state: “a key risk that the UK energy industry faces is the ability to attract, develop and retain an appropriately skilled, diverse and responsible workforce. SSE strongly supports a future UK-EU relationship with continued access to labour from EU Member States”.

As detailed earlier, energy has a variety of components. Energy UK, as trade association for the energy industry, has stated that its position on the key issues central to Brexit negotiations are\(^3\):

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• A comprehensive energy and climate chapter should be part of any future trade agreement with the EU;

• Participation in the Internal Energy Market, continuation of the Single Energy Market on the Island of Ireland and close cooperation on climate change should form the basis of the future energy agreement; and

• Preserving the mutual benefits for consumers, businesses, competition and the environment should be at the centre of the agreement.

On the Internal Energy Market, Energy UK further state—

“The Internal Energy Market (IEM) is a collaborative project with a long term vision. It offers all its participants clear benefits in terms of efficient trading of both gas and electricity, enhanced security of supply, access to a wide market for competition and innovation while helping to keep energy costs down for consumers and businesses”.

Graeme Cook
SPICe Research
2 November 2020


Sectoral Briefing: ENGINEERING AND BREXIT

Context

Writing for The Herald newspaper, Scottish Engineering’s Chief Executive Paul Sheerin wrote—

“I have always struggled to see value in Brexit, but in today's full-blown economic crisis, the prospect of a course of action sure to add further damage is incomprehensible.”

Output from manufacturing in Scotland makes up more than 50 per cent of Scotland’s international exports, and according to Paul Sheerin “any additional costs on top of the pandemic impact are the exact opposite of what is needed”.

Value of and future access to the EU market

Manufacturing made up 35.3% of Scotland’s exports (both international and to the rest of the UK) in 2018. The total value of manufacturing exports was £29,990 million. According to the SPICe Briefing on Scotland’s Exports, the export of manufactured goods includes products like whisky, clothes or petroleum products. The image below provides details of the value of manufacturing sector by product category.

Value of manufacturing sector total exports from Scotland – 2018

Where do Scotland's manufacturing exports go?

Manufacturing makes up 35% of the value of exports from Scotland. Almost two thirds, approximately £18.7 billion, are classed as international exports. In 2018, manufacturing exports to the EU were worth £8.8 billion.

Implications of Brexit

According to Paul Sheerin, the implications for manufacturing of Brexit include—

“an estimated 400 million extra customs declarations could average up to £13 billion per year additional cost to UK businesses...

…The second set of sobering reminders came closer to home, firstly with the proposed closure of technical ceramics manufacturer Coorstek in Fife, a highly competent and respected employer in the area, its parent company citing the potential impact of Brexit as one of its reasons for exiting Scotland. Alongside this, manufacturing companies evaluating the reality of released UK global tariff proposals have highlighted cases where they will pay significant tariffs to import essential and substantial component parts of their final sold goods, but competitors from the EU will be able to export their finished sold goods to the UK – including those same component parts – tariff free. Make sense of that if you will.”

UK Manufacturing in the EU

In addition to exporting, UK manufacturers also provide services in the EU. According to Make UK—

“Make UK members have made it clear that they send their workers to the EU for business, and wish to continue offering services to EU Member States. The provision of services are a significant part of the manufacturing sector and the UK economy as a whole. The Office for National Statistics (ONS) reports that Europe is the largest export market for UK trade in services and accounts for 51% of the UK’s exported services. This is estimated to be worth around £95 billion pounds. The recent Make UK International Trade Report published 6th October 2020 in association with HSBC UK found that 35% of manufacturers who export also provide a service as part of the sale of a good to customers overseas.

It is of interest to look at which countries are the most popular destinations that companies travel to for business. France, Germany and the Netherlands account for nearly two thirds of all business trips, underlying just how important these three EU Countries are to the UK manufacturing sector.”

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7 https://www.makeuk.org/insights/blogs/where-we-send-our-workers
Deal or No-deal?

On 21 October 2020, UK and EU manufacturing industry bodies called for the UK Government and European Commission to return to the negotiating table and find the way through to a deal. According to a letter signed by a number of signatories, including Paul Sheerin, reaching a deal and avoiding a no-deal situation is imperative. Any deal should “achieve the best deal possible avoiding tariffs, simplifying rules of origin and minimising red tape and bureaucracy at the border.” According to the letter—

“While UK manufacturing is slowly recovering from the ongoing COVID crisis, essential to that recovery is the seamless operation of supply chains and the modern marvel of just-in-time logistics.

A no-deal scenario with our most critical trading partner, the EU, would be disastrous for manufacturing and for the millions more employed in supporting industries both here in the UK and across the EU.

The impacts would go far beyond disruptions in trade at the border. Families and communities would be left hanging in the balance, affecting real people who need the well-paid jobs that manufacturing provides alongside its contribution of almost half of Britain’s global exports.

Manufacturing and engineering companies employ 2.7million in every constituency up and down the UK and many millions more across the whole of Europe. Their products power our lives - the cars we drive, the technology behind our schools and hospitals, even the meals we consume. Britain is a leading exporter of innovation, product and technical skills which are playing a critical part in boosting efforts to lead our economic recovery and the same can be said for many of the great manufacturing nations across Europe.”

Iain McIver
SPICe Research
2 November 2020

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Introduction

The pharmaceutical industry, which develops and manufactures medicines, is currently part of a heavily integrated EU supply chain. This integration has been supported by the UK’s membership of the Single Market and EU-wide frameworks for the regulation of medicines and medical technologies. At the end of the transition period, the UK will leave the EU Single Market/Customs Union and no longer be part of the EU’s regulatory framework. This will affect the industry’s ability to trade with ease and requires businesses to make changes.

The Association of the British Pharmaceutical Industry (ABPI) has worked to influence the future EU-UK relationship – for example through its 2016 manifesto and founding-membership of the Brexit Health Alliance - stating “our priority is a future trading relationship with the EU based on cooperation”. The ABPI has outlined ‘asks’ for the current negotiations mainly relating to—

- market access (e.g. supply chain issues, trade barriers);
- regulatory cooperation for patient safety; and
- access to skilled labour and scientific collaboration.

According to the ABPI, researching, making and distributing medicines is worth £2.7 billion to Scotland’s industrial output, directly supporting around 5,000 Scottish jobs – a 60% increase since 2009.

Access to market and supply chain

To ensure the continuation of trade, the ABPI is calling for zero tariffs on the components of medicines production and research and simplified Rules of Origin (similar to those agreed in the EU and Canada trade agreement) as part of an EU-UK comprehensive free trade agreement.

However, whether there is a trade deal or not, to maintain their market access UK pharmaceutical companies will have to make changes as a result of the UK leaving the EU’s regulatory framework. On 1 September, the UK Government’s Medicines and Healthcare products Regulatory Agency (MHRA) issued updated guidance for industry and organisations to follow from 1 January 2021. This guidance covers multiple licensing issues, importing and exporting rules, regulations for medical devices, clinical trial registrations, pharmacovigilance procedures and use of new IT systems. The ABPI’s reaction to this guidance said that—
“Our members will be reassured that Government has provided some critical information to help them continue preparations for the end of the transition. Companies face significant changes in how the complex environment for medicines regulations will operate in 2021.”

The potential for disruption at the border has also previously been raised as an issue. However, in recent evidence to the House of Commons, the ABPI’s chief executive, Dr Richard Torbett, described the “multi layered approach” taken by companies and government to security of supply, concluding that: “we are in as good a position as we can reasonably be”.

**Regulatory cooperation**

In 2018, the “deepest concern” for the industry, as identified by the Business, Energy and Industrial Strategy Committee, was regulatory divergence from the European Medicines Agency. In March 2020, the Secretary of State for Health and Social Care, Matt Hancock, described the first aim of the Medicines and Medical Devices Bill 2019-20 as to allow for divergence “from EU rules and regulations in future, moving at a faster pace, if that is what we choose to do as an independent, self-governing nation”. In evidence to the House of Commons, Dr Torbett, said

> “High regulatory standards are incredibly important for us, and we would want the MHRA to stick to those high international standards. Divergence, in the sense of doing things a bit differently, starts to become feasible and more productive if it is about meeting those international standards in perhaps a creative, efficient or quicker way.”

The ABPI is calling for a Mutual Recognition Agreement (MRA) on Good Manufacturing Practice and batch testing, arguing that

> “Each month 45 million packs of medicines move from the UK to the EU and 37 million go back the other way… Without a technical agreement in the form of a Mutual Recognition Agreement, when the medicine arrives in the EU it would be then re-tested, adding cost and delay in reaching patients.”

Agreeing a MRA is part of the current UK government’s negotiating objectives. In evidence to the House of Commons, Dr Torbett, described an MRA as the “bare minimum” and “a no brainer that needs to get done” to avoid red tape and delays, highlighting the possibility of agreeing a MRA outside of a free trade agreement. The EU currently has seven MRAs on human and veterinary medicines. However, UK in a Changing Europe fellow, Professor Catherine Barnard and Dr Emilija Leinarte point to problems with the operation of pharmaceutical MRAs, and discuss what this means for a UK-EU trade deal as follows—

> “The EU has concluded a number of ‘traditional’ MRAs of conformity assessment, including those with Australia, Canada, Japan, New Zealand and the US. While some of the sectoral annexes have been working well (e.g. telecommunications) others have proved less successful (e.g. MRAs in electrical safety, medical
devices, pharmaceutical GMP, recreational craft are in most cases not operational).” [emphasis added]

On patient safety issues, the ABPI is calling for ongoing regulatory cooperation, such as input and access to patient safety databases, such as the European Medicines Verification System, Eudravigilance and collaboration through established EU-3rd country regulatory authority clusters.

**Skilled labour and scientific collaboration**

The ABPI is calling for the UK’s to fully participate in the Horizon Europe programme and continue to influence the EU research programmes as far as possible. The EU’s chief negotiator reported on 21 October that negotiations on the UK’s participation in Horizon have recently progressed.

The ABPI also supports the continued movement of skilled people that the UK pharmaceutical industry requires. Specifically, through a “system for exchange of scientific talent” and by maintaining current systems such as the Intra-company Transfer process and the mutual recognition of professional qualifications.

Iain Thom
SPICe Research
2 November 2020
Sectoral Briefing: Road Haulage

Context

Under the current free movement rules, UK hauliers can travel to and from the EU without restrictions or barriers. At the end of the transition period this will change with the level of disruption dependent on the nature of any deal with the UK or no deal being agreed.

Current movements

According to the Road Haulage Association (RHA)—

“In the UK there are 8,348 hauliers licenced for international carriage with 83,522 trucks. In NI those numbers are 1,830 hauliers licensed for international carriage covering 10,688 trucks. Taking into account that not all of these trucks will be looking to transit to Europe at the same time, even if we use a 50% ratio that would mean the potential for 47,105 truck movements to Europe with only 4080 permits to allow that access (each movement needs one permit). Although information on permits and licences is a moving feast, this is the default position for the UK in the event of no-deal at the time of writing.”

Following the end of the transition period, hauliers are likely to require an international road haulage permit from the European Conference of Ministers for Transport (ECMT). The number of permits the UK has pre-dates its membership of the EU, according to the RHA—

“As freight movements have grown to the levels mentioned above, the demand for ECMT permits vastly outweighs the supply. By way of illustration, there is a maximum of 2088 lorry movements into Europe that can be permitted under annual permits at any given time (+ a maximum of 10% that can be split into monthly permits), and 1992 for NI.”

Border procedures

A key issue for hauliers will be the nature of border procedures (between the UK and the EU and also between GB and NI) following the end of the transition period. Given the procedures will be more bureaucratic and burdensome than the UK enjoyed as an EU member state it is possible these procedures may lead to delays at the border.
The UK Government sought to address this issue when it published the **Border with the European Union** in October 2021. One measure the UK Government has taken is to introduce the new border controls in three stages up until 1 July 2021 to allow industry to prepare. However, border arrangements on the EU side are likely to be in place immediately after the transition period ends.

According to the RHA—

“Although the recent publication of the Border Operating Model has given a bit more of a steer as to requirements at the border, there are many issues still outstanding. There is little confidence that the Govt has the physical infrastructure and manpower to cope with the new customs formalities. Estimates are that an additional 50,000 customs intermediaries will be required to handle the “paperwork” be that physical or electronic forms.

Although the Border Operating Model (BOM) has given more clarity about requirements for moving goods through the short straits, there is still not much clarity about goods moving too, from and through NI.”

**Reliance on EU nationals**

In its written submission to the Committee, the RHA highlighted that the UK logistics industry is heavily reliant on labour provided by EU nationals. The RHA states that this supply of labour, especially from Eastern Europe, is dropping off threatening to leave the industry short of the required labour force—

“It is estimated that at any point the logistics sector is short of around 50,000 drivers (10-12,000 in Scotland) and this numbers increases when we look at warehousing and other subsidiary roles. The industry has an aging workforce (average driver age is 54 years old) and the Covid restrictions surrounding vocational licence testing has exacerbated the problem of bringing in new entrants. The Mac report highlighted the problems we as an industry face but despite this the UK Govt has not added any logistics related roles to the Shortage Occupation List and the agreed salary thresholds have not helped. Logistics and road haulage will definitely suffer from skills shortages post Brexit, the only question is to what extent?”

**Deal or no-deal?**

The RHA have not publicly expressed a view point about whether a deal or no-deal is preferable at the end of the transition period. However, whether there is a deal or not, many of the challenges in terms of border procedures and labour shortages will be present. According to Rod McKenzie, from the Road Haulage Association—

“It is a real case of the government sleepwalking to a disaster with the border preparations that we have, whether it is a deal or no-deal Brexit at the end of December.”

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11 [https://www.bbc.co.uk/news/uk-54021421](https://www.bbc.co.uk/news/uk-54021421)
A key concern highlighted by the RHA is the potential disruption to supply chains that may happen as a result of the new border procedures introduced following the end of the transition period. Rod McKenzie told the BBC—

"The supply chain on which we are all dependent to get the things we need could be disrupted and there is a lack of government focus and action on this."

When we are trying to emerge from the crisis of Covid, if we then plunge straight into a Brexit-related crisis, that will be a really difficult moment and we need real pace.

The difference here is between a disaster area and a disaster area with rocket boosters on."

Finally, in its written submission to the Committee, the RHA wrote—

“For us, the biggest concerns are around the need for clarity so hauliers and logistics companies can be as ready as possible for the changeover in January.”

Iain McIver
SPICe Research
2 November 2020

12 https://www.bbc.co.uk/news/uk-54021421