

CIA response to Reforming Regulation Initiative

CIA is the trade association representing and advising chemical and pharmaceutical businesses across the UK. A significant contributor to the UK economy¹ (£17 billion of Gross Value Added on a turnover of £55.5billion), the chemical industry is at the heart of UK manufacturing, with chemistry and chemicals helping to ensure clean water, sufficient food, clean energy and many other essentials to everyday life.

Good, effective regulation is essential for a successful economy and we welcome the Government's initiative to ensure the right regulatory balance is achieved in supporting businesses and protecting workers, consumers and the environment. The chemical industry is, rightly, a highly regulated sector, helping to give confidence to our workforce, local communities, consumers and society at large. At the same time the chemical industry is critical to the development of an environment-respecting nation. Our products enable greenhouse gas savings of two units, for everyone we emit in production. With the UK taking its role as a global leader in addressing climate change, and adopting an accelerated transition to net zero, it is critical that we mitigate any potential negative impact to our economy and its industrial base. Foundation industries like ours underpin modern manufacturing, but trade in a global market are in need of a growth sensitive and reliable policy and regulatory measures to compete.

Executive Summary

In responding to this consultation, we propose a number of measures that would enable regulation to recognise the essential role of chemicals to deliver climate ambitions and promote circulatory, all underpinned by innovation, science and risk-based decision making.

- 1. Taking stock of existing regulations and their effectiveness before designing new policy measures. This includes streamlining where possible to achieve more consistency and eliminate duplication as well as addressing implementation issues.**
- 2. Enable a level playing field between domestic and international manufacturing through delivery of climate change policies that focus on consumption emissions as well as territorial emissions. Effective enforcement of existing regulations will also be key.**
- 3. Building on existing progress rather than duplicating investment and efforts.**
- 4. Maximising innovation capability**

- 1. Taking stock of existing regulations and their effectiveness before designing new policy measures.**
Reviewing effectiveness of existing regulations and whether these are fit for purpose is central to ensure unnecessary administrative burdens are minimised whilst supporting policy goals. In particular we believe the following measures would minimise complexity and improve implementation, compliance and enforcement, especially for small and medium enterprises (SMEs).
 - **Streamlining where possible to achieve more consistency and eliminate duplication:** Policy and implementation of related legislation should complement each other, working together rather than against. For example, improving the synergy between REACH and occupational health legislation to ensure they deliver effective protection of workers from potential chemical risks rather than proposing a complete legislative ban. Another example is, streamlining carbon monitoring, reporting and pricing: The current policy regime comprises complex, overlapping requirements: the Energy Saving Opportunity Scheme (ESOS), Streamlined

¹ <https://www.cia.org.uk/About-us/Our-industry>

Energy and Carbon Reporting (SECR), Climate Change Agreements (CCAs), the EU Emissions Trading Scheme (EU ETS), the Carbon Price Support (CPS) and the Climate Change Levy (CCL). Complying with numerous schemes drains staff resources and creates significant expenditure, disproportionate to the value added. These policies also do not complement one another, as the scope of reporting differs between them. Multiple policies can also create perverse incentives when it comes to the net zero target, e.g. EU ETS participants are being encouraged to fuel-switch to low-carbon electricity, but if they did they would be penalised under the current framework because doing so would shift their reporting and carbon price obligations into the CCA scheme.

- **Addressing implementation issues:** The UK has a long and successful history of regulating the environmental impacts from industry, being amongst the first in the world to develop the integrated approach to pollution prevention and control. In order to ensure the UK's sophisticated system of regulating industrial emissions continues, environmental permit conditions must take into account overall environmental impacts through holistic assessments that are directed by the level of risk posed, as well as site-specific considerations and relevance to the local and wider environment. This combined with assessing cross-media effects through a cost-benefit approach will ensure the most effective environmental protection is achieved and the best practicable option is selected through environmental engineering. To improve cost-benefit assessments, more and better information for specific pollutants would be useful, particularly for emissions to water. An additional opportunity to alleviate regulatory burdens would be the replacement of third-party audits of management systems where appropriate by including them in the regulatory inspections themselves.

2. Enabling a level playing field between domestic and international manufacturing

Foundation industries like ours underpin modern manufacturing, but trade in a global market needing the regulatory environment to be both affordable and reliable to compete. Policy measures and related regulations that set a level playing field between domestic and foreign businesses would not only increase the likelihood in delivering policy goals but enables fair competition between businesses. In particular we believe the UK should focus on:

- **Delivering climate change policies with a focus on consumption emissions as well as territorial emissions.** The UK's historic focus on pricing territorial emissions, has already driven energy intensive manufacturing overseas. The recent ONS report on UK greenhouse gas emissions, shows that whilst the UK's territorial emissions have decreased significantly over the last 20 years, our consumption emissions remain on a level comparable with 1990. According to Defra's UK carbon footprint published in March 2020 UK greenhouse gas emissions related to imported products are 18% higher than in 1997 when their records began, whereas UK production emissions attributable to UK final consumption decreased 31%. This tells us that UK industry is cleaner than elsewhere, but UK manufacturers are losing out to overseas production. A focus on consumption emissions would put the UK in a leading position, allowing it to have a real impact on global emissions. This could include consideration of how consumption-based measures, such as labelling, product standards and carbon adjustment mechanisms, could help create a market for low-carbon goods and allow manufacturers to pass through the cost of decarbonisation to the consumer. We should also protect domestic producers who have cleaner processes, but face higher costs related to the decarbonisation effort. This could be through access to bilateral carbon offsetting via Article 6 of the Paris Agreement, or it could be through exemption from the policy cost of energy decarbonisation, as recommended by Dieter Helm in his Cost of Energy review.
- **Effective enforcement of existing regulations,** particularly on imports, as well as ensuring enforceability of regulatory measures. Effective enforcement plays an important role to guarantee a level playing field. The intelligence-led enforcement approach adopted in the UK in the area of REACH for instance helps differentiate between companies that comply with the legislation and companies that merit further scrutiny. This remains, in our view, an excellent way to achieve effective enforcement whilst reducing the regulatory burden on compliant businesses and making efficient use of internal resources. In addition, the UK authorities' approach to educate whilst enforcing REACH is a much more effective way to raise standards amongst companies and achieve better chemical management on the ground than simply handing out penalties. Irrespective of UK's exit outcome, we urge the UK approach to continue to be educative, risk based, transparent and visible, as well as to act as a deterrent to those who are willing non-compliers.

3. Building on existing progress

In leaving the European Union we recognise the need to transpose EU law into the UK in particular to avoid a 'cliff edge.' However, given the integrated nature of our industry and impact this will have accessing our biggest market, UK businesses are in need of a UK chemicals regime (REACH) that avoids duplicating submission of costly data and delivers no additional environmental benefit. The EU REACH regulation has seen businesses across Europe working collaboratively to develop one of the world's largest database, with more than 90,000 registrations for 22,000 substances. Over 10,000 of these registrations have been submitted by the UK accounting for over 5,000 substances making UK companies the second highest contributor to what

is known as the largest and most comprehensive database on chemicals. The cost of duplicating to business alone under the current UK REACH is estimated to exceed £1 billion in addition to the £500 million already invested by UK businesses. In order to protect this investment, the UK REACH regime should look to build rather than duplicate existing compliance efforts.

4. Maximising innovation capability

If the UK is truly looking to better balance policy decisions, we firmly believe this can be achieved by embracing the innovation principle into mainstream policymaking. As recently stated by the Government's own independent Regulatory Policy Committee (RPC), the innovation principle enables better regulation by ensuring a balanced approach is taken in policy decision making, thereby stimulating investment in innovation by increasing the confidence of innovators in the regulatory system. For example, in the area of chemicals and product related regulations the innovation principle would make sure we not only consider hazard and risk properties but also the potential benefits to society. In this context we welcome the Government's White Paper on 'Regulation for the Fourth Industrial Revolution' setting out plans to transform the UK's regulatory system to support innovation while protecting citizens and the environment. In particular we support and look to further support the possibility to introduce an 'innovation test' so that the impact of legislation on innovation is considered during the development of policy, introduction and implementation of legislation and its evaluation and review. This approach would not replace any other policy informing principles but instead ensures a holistic approach.

For further information contact **Nishma Patel** (PatelN@cia.org.uk) or **Simon Marsh** (MarshS@cia.org.uk)