



Brexit's effects on the chemical sector

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Anybody not acquainted with Brexit, whether through work or study, is probably unaware of the consequences of this “divorce”. The pandemic has shifted attention towards much more pressing issues, therefore conventional wisdom has it that the British simply wished to reaffirm their independence and their distinctive character vis-à-vis us Europeans.

In reality, behind all the folklore and heritage, there are very complex processes at work that are rapidly impacting all sectors of EU and UK business. UK REACH, for example, affects all companies producing and selling chemical substances, as it sets out new, strict requirements.

Put simply, Italian and UK businesses are faced with new, duplicate fulfilments that require speed of execution and investment in order to attain compliance. UK REACH is a case in point of the duplication of work that now needs to be carried out. For all intents and purposes, UK REACH retains the same general principles as EU REACH, but both regulations will operate independently of each other.

Since last January, businesses with an EU REACH registration who wished to sell to the United Kingdom have been faced with a problem to be solved quickly and also had to meet the obligations set out in this legislation.

The two paths to compliance

All UK legal entities who held an EU REACH registration have the option of transferring it to the UK through the so-called “grandfathering” process, by providing basic information to the Health and Safety Executive (HSE) by 30 April 2021. These dossiers must then be completed within 2, 4 or 6 years depending on the tonnage band from 28 October 2021. Aside from the technical work to carry out the registration in the United Kingdom, UK companies will also have to recommission all the tests contained in the EU dossier from the owner of the tests (often a third party) in order to use them outside of EU REACH, which is the reason why they were initially purchased.

In such cases, moreover, in order to maintain their EU registration, UK legal entities must have transferred their registration to an EU27 company by the end of last year. If this did not take place, the EU REACH registration for UK legal entities would have been removed by the European authorities as of 1 January 2021 and now no longer exists.

In order to give more time for UK companies to comply with the new regulation, in addition to the grandfathering processes, UK REACH also offers the possibility of notifying substances that were already imported to the UK until 2020, by using one's own or a supplier's EU REACH registration. This process is known as DUIN: Downstream User Import Notification.

UK companies buying from EU suppliers without an EU REACH registration of their own or EU businesses exporting to the UK with an EU REACH registration can submit a DUIN to the HSE by 27 October 2021 directly (for UK companies) or through a UK company acting as their Only Representative (OR) (for non-UK entities). Likewise, it will be necessary to submit a complete registration within 2, 4 or 6 years, with the same duplication of costs as described above (i.e. renewed payment of tests contained in the UK REACH dossier, technical expenses and an OR service if applicable).

It is evident that the deadlines for the first obligations are coming up fast. How to best move forward?

Currently, only few companies have the necessary in-house expertise to implement UK REACH, considering that it requires professionals specialised in a variety of fields (chemistry, toxicology, law, trade...). The solution is to rely on external professionals, regardless of the size of the company, to provide high-quality and effective support. Moreover, it should be pointed out that UK REACH registrations can only be submitted by legal entities with registered address in the UK. External consultants can provide clients with the necessary Only Representative service in this regard.

Compliance with UK REACH is not solely a regulatory matter: it is important for companies to understand that, just as in the EU, the paradigm "no data, no market" applies – that is to say, business is stopped and it is impossible both to produce or to import. The agreed extension gives companies a few more months of respite, but as of 28 October 2021, non-compliant businesses will be barred from trading. Avoiding this impasse allows companies to save money and to focus on their operations.

REACH's silver lining

UK REACH, which has caused commotion in the administrative and regulatory offices of many companies in Italy and elsewhere, is an additional fulfilment, but it is also a new opportunity for the Old World. Furthermore, UK REACH and EU REACH together will guarantee the highest standards of control for chemicals, protecting the environment and the health of all citizens.