

Brussels, July 7<sup>th</sup> 2016

## **ORO Brexit Statement**

The referendum in the UK on June 23<sup>rd</sup> 2016 that resulted in a vote for the UK to withdraw from membership of the European Union has resulted in some uncertainty as far as the European regulatory landscape is concerned. This statement is intended to try to bring some clarity to this situation. The key points, based on what we know today, are as follows:

1. EU Directives, which have had to be written into UK law by Act of Parliament, are unlikely to be affected at least in the medium term.
2. For EU regulations, what happens will be dependent on what happens after exit. What is clear is that exiting the EU will take at least 2 years, so the 2018 REACH registration deadline is unaffected. After this, two scenarios can currently be foreseen:
  - i. The UK remains part of the European Economic Area, EEA (at present, UK is part of EEA by virtue of its membership of the European Union; after exit, UK would have to join as a sovereign nation). This would place the UK in the “REACH zone” (as Norway, Iceland and Liechtenstein are now) and REACH, CLP and other related regulations would be unaffected. Only Representatives would continue to operate out of the UK unaffected.
  - ii. The UK does not remain part of the EEA. If this happens, there would be a number of consequences, which collectively make this unlikely. Firstly, UK would have to set up some chemical control regulations of its own as the old directives (Dangerous Substances Directive, Dangerous Preparations Directive etc.) have all been repealed. Secondly, all products covered by existing REACH and related regulations would no longer be eligible for free movement within the REACH zone and would require registration (REACH), notification (CLP) etc. Thirdly, REACH registrations covered by UK based Only Representatives (OR) would become null and void; they would have to all be subject to legal entity transfers to EU-based organisation(s). Even in the event of this improbable (though not impossible) scenario, UK based registrants/pre-registrants, includes ORs that have (pre-)registered on behalf of non-community manufacturers will have some time to manage a transfer process. Most ORs have legal entities in EU Member States that intend to remain part of the EU, so internal transfers will not generally be problematical.

Two further points to consider:

- In the next 6-12 months, the UK government is likely to introduce enabling legislation to incorporate into UK law a block of EU regulations; this would facilitate the whole exit process.
- A 2-year exit process is envisaged, but it is possible that transitional measures will be implemented after this to allow legal entity transfers etc., should REACH no longer be applicable in the UK.

In summary, comments that have appeared advising OR clients to “consider that a “defensive” switch of their OR to a non-UK based entity is now necessary” are well wide of the mark and are unfounded from a regulatory and commercial perspective.

ORO is observing this very closely and once significant new developments become clear will inform accordingly. However, for the time being any regulatory actions would be considered pre-mature, considering that the direction this will lead too is not yet clear.

(Dr. Drohmann / ORO President)