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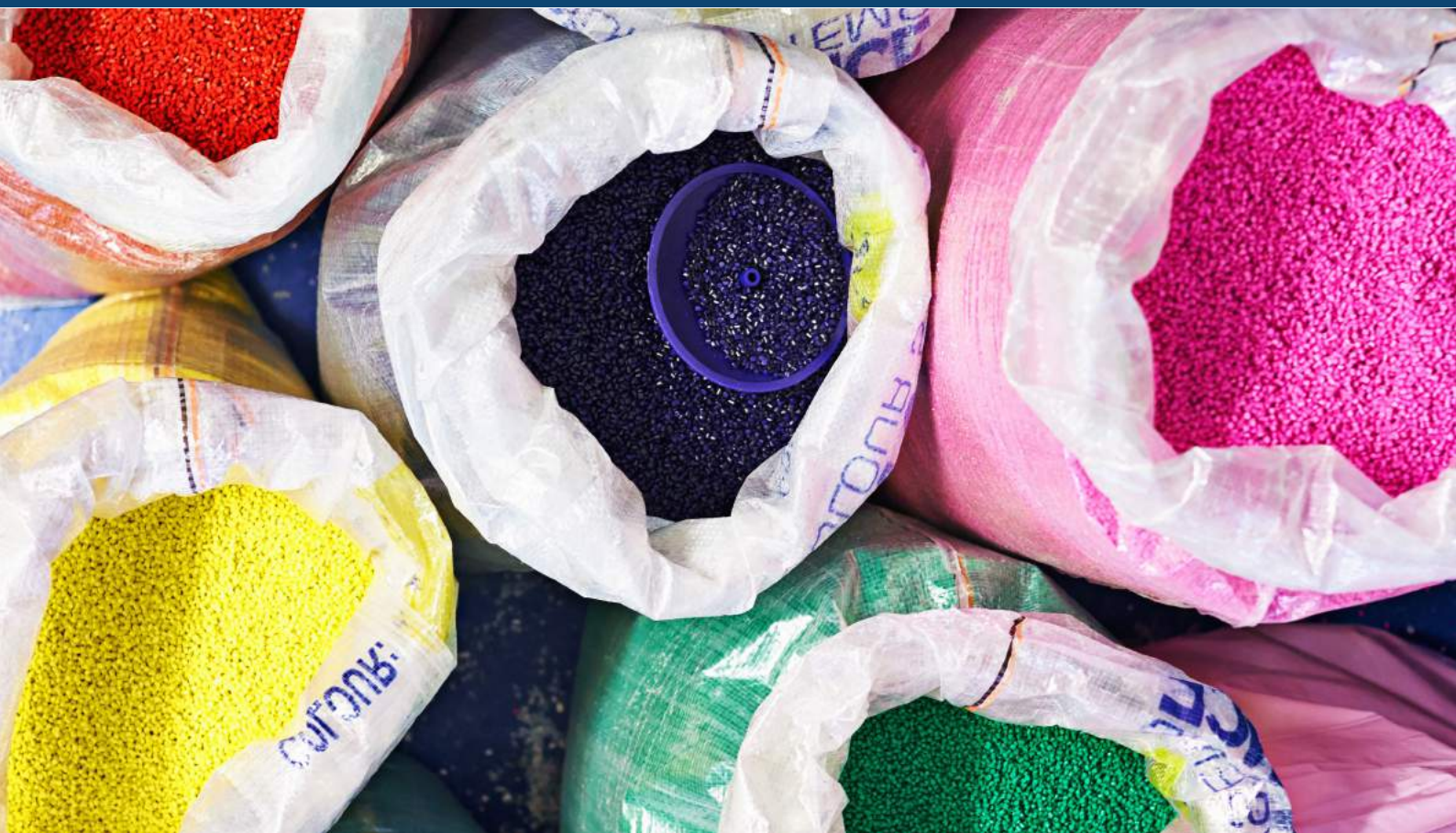


Department for
Business, Energy
& Industrial Strategy

Preparing for Brexit:

Practical Guidance for the Plastics Industry

Published October 2019



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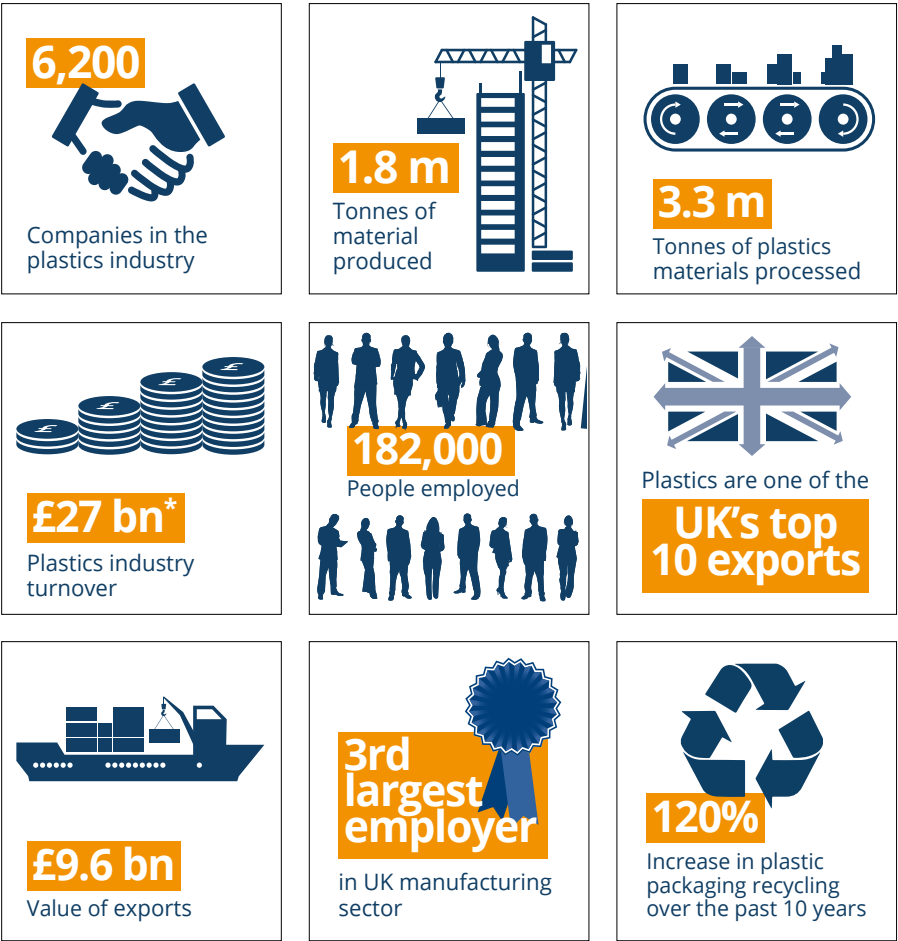
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Foreword

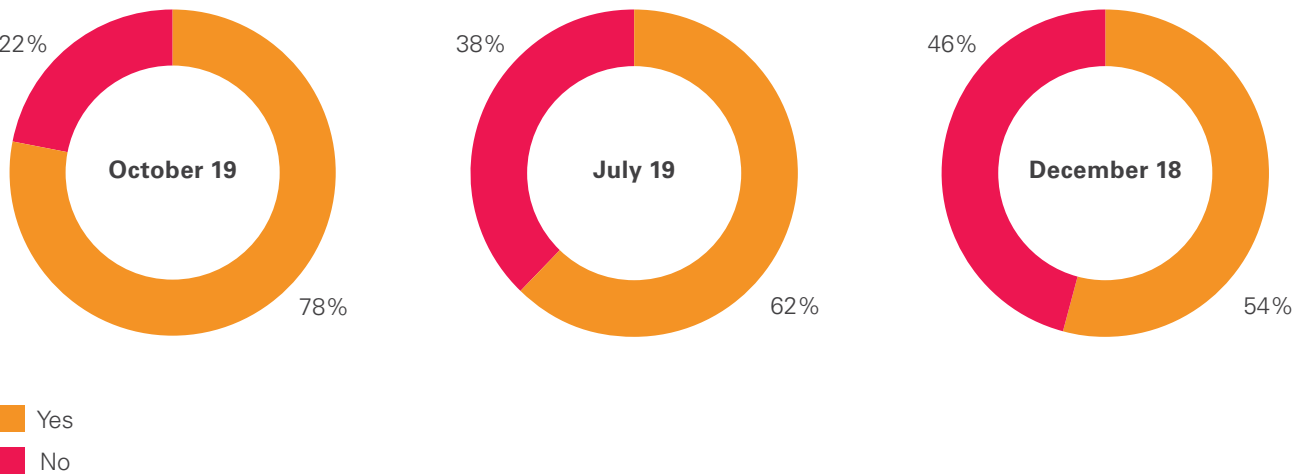
The UK plastics industry is one of huge strategic and economic importance to the UK. It is a key enabling industry powering many customer sectors, including aerospace, automotive, construction, electrical and electronic, energy generation, packaging, furniture, military, marine and medical. It is also a huge employer. With over 180,000 employees, a turnover of £27 billion and nearly £10 billion worth of exports, the UK plastics industry is one the largest sectors in UK manufacturing.



Source: www.bpf.co.uk/industry/sources

*Includes raw material, products, recycling and equipment

BPF Members who have made contingency plans for a no-deal Brexit?



The EU is the UK plastics industry's most significant trading partner, accounting for 69% of all trade, with nearly £15 billion worth of plastic and plastic products being traded between the UK and EU member states each year. In addition to this, the UK plastics industry has long relied on EU workers and the valuable skills they provide to ensure the UK plastics industry is a world leader. Currently, there are around 20,000 EU workers in the UK plastics industry working at all levels, from shop floor to senior management.

Our latest (October 2019) survey shows nearly 80% of our members have now made contingency plans for a no-deal Brexit and we are confident that the plastics industry has made significant steps to ensure that it is prepared for all eventualities. The plastic industry is very diverse, with over 6,000 companies and the vast majority (over 98%) being SMEs.

We have created this guide to ensure that all companies understand some of the key practical steps that need to be taken in order to ensure that, as an industry, we are prepared for a no-deal situation and that, following an exit from the EU, the UK plastics industry can continue to grow from strength to strength.

The BPF established a Brexit Taskforce within days of the referendum result and over the last three years we have surveyed and advised members in a variety of ways. For more information on the work carried out by the BPF and the Brexit Taskforce go to www.bpf.co.uk/eu

Regards



Philip Law

Director General, British Plastics Federation

VAT and Indirect Taxes Post-Brexit

Under current VAT rules:

- VAT is charged on the supply of most goods and services sold within the UK and the EU
- VAT is payable by businesses when they bring goods into the UK – there are different rules depending on whether the goods come from an EU or non-EU country
- Goods that are exported by UK businesses to non-EU countries and EU businesses are zero-rated, meaning that UK VAT is not charged to those customers at the point of sale
- Goods that are exported by UK businesses to EU consumers have either UK or EU VAT charged, subject to distance selling thresholds
- For services, the “place of supply” rules determine the country in which businesses need to charge and account for VAT

If There Is No Deal

The UK government has stated that the UK will continue to have a VAT system when it leaves the EU – after income tax and national insurance, VAT contributes the most of any tax to government coffers. The VAT rules relating to UK domestic transactions will continue to apply to businesses as they do now, subject to changes to the VAT regime that the government decides to enact in due course.

If the UK leaves the EU without a deal, the UK government’s stated aim is to keep cross-border VAT procedures as close as possible to what they are now to provide continuity and certainty for businesses. However, if the UK leaves the EU without a deal, then there will be some specific changes to the VAT rules and procedures that apply to transactions between the UK and EU member states.

Accounting for Import VAT on Goods Imported Into the UK

If the UK leaves the EU without a deal, the government will introduce postponed accounting for import VAT on goods brought into the UK. This means that UK VAT-registered businesses importing goods to the UK will be able to account for import VAT on their VAT return, rather than paying import VAT on or shortly after the time that the goods arrive at the UK border.

This will apply both to imports from the EU and non-EU countries, a change for businesses from the current rules in relation to non-EU imports.

Customs declarations and the payment of any other duties will still be required.

VAT on Goods Entering the UK as Parcels Sent by Overseas Businesses

If the UK leaves the EU without a deal, VAT will be payable on goods entering the UK as parcels sent by overseas businesses.

Low Value Consignment Relief (LVCR) will not be extended to goods entering the UK from the EU. This means that all goods entering the UK as parcels sent by overseas businesses will be liable for VAT.

For parcels valued up to and including £135, a technology-based solution is intended to allow VAT to be collected from the overseas business selling the goods into the UK. Overseas businesses will charge VAT at the point of purchase and will be expected to register with an HM Revenue & Customs (HMRC) digital service and account for VAT due.

The digital service is an online registration, accounting and payments service for overseas businesses. On registration, businesses will be provided with a Unique Identifier which will accompany the parcels they send in to the UK. They will then declare and pay the VAT due on those parcels via their online account. This is intended to ensure the process of paying VAT on parcels does not become burdensome for UK consumers and businesses.

On goods worth more than £135 sent as parcels, VAT will continue to be collected from UK recipients in line with current procedures for parcels from non-EU countries. VAT will also continue to be collected in line with current procedures for all excise goods sent as parcels and potentially in cases where their supplier is not compliant with HMRC’s new parcels policy.



UK Businesses Exporting Goods to EU Consumers

If the UK leaves the EU without a deal, distance-selling arrangements will no longer apply to UK businesses and UK businesses will now be able to zero-rate sales of goods to EU consumers.

Current EU rules would mean that EU member states will treat goods entering the EU from the UK in the same way as goods entering from other non-EU countries, with associated import VAT and customs duties due when the goods arrive into the EU.

Place of Supply Rules for UK Businesses Supplying Services Into the EU

If the UK leaves the EU without a deal, the main VAT place of supply rules, which determine the country in which businesses need to charge and account for VAT, will remain the same for UK businesses.

The rules around place of supply will continue to apply in broadly the same way that they do now. Areas of potential change are flagged below.

For UK businesses supplying “digital services” to non-business customers in the EU, the place of supply will continue to be where the customer resides. VAT on services will be due in the EU member state in which the customer belongs for the purposes of the relevant supply.

UK VAT Mini One Stop Shop (MOSS)

If the UK leaves the EU without a deal, UK businesses that sell digital services to consumers in the EU will be able to register for the MOSS non-Union scheme.

MOSS is an online service that allows EU businesses that sell digital services to consumers in other EU member states to report and pay VAT via a single return and payment in their home member state. Non-EU businesses can also use the system by registering in an EU member state.

If the UK leaves the EU without a deal, businesses will no longer be able to use the UK’s MOSS portal to report and pay VAT on sales of digital services to consumers in the EU.

Businesses that want to continue to use the MOSS system will need to register for the VAT MOSS non-Union scheme in an EU member state. This can only be done after the date the UK leaves the EU. The non-Union MOSS scheme requires businesses to register by the tenth day of the month following a sale.

EU VAT Refund System

If the UK leaves the EU without a deal, then UK businesses will continue to be able to claim refunds of VAT from EU member states, but they will need to use the processes for non-EU businesses.

UK businesses will no longer have access to the EU VAT refund system, but will be able to claim refunds of VAT from EU member states by using the existing processes for non-EU businesses. This process varies across the EU and UK businesses will need to make themselves aware of the processes in the individual countries where they incur VAT and want to claim a refund.

EU VAT Registration Number Validation – Accessed via the EU Commission’s Website

If the UK leaves the EU without a deal, UK businesses will be able to continue to use the EU VAT number validation service to check the validity of the VAT registrations of EU businesses. The UK government has stated that HMRC is developing a service so that UK VAT numbers can continue to be validated.

The EU VAT Registration Number Validation service allows businesses to check whether a customer or supplier’s VAT number is valid.

UK businesses will be able to continue to use the EU VAT number validation service to check the validity of EU business VAT registration numbers. UK VAT registration numbers will no longer be part of this service.

Businesses in Northern Ireland Importing to and Exporting From Ireland

Both the UK and EU have indicated that, in the event of a no-deal outcome, they would aim to avoid creating a hard Irish border.

On the UK side, the introduction of postponed accounting for import VAT should reduce friction on the Irish border, but it is unclear how VAT checks can be entirely eliminated. The EU is not intending to introduce postponed accounting for import VAT and, therefore, it is unclear how Ireland will not be able to require those bringing goods into Ireland from Northern Ireland to pay import VAT on or shortly after the time that the goods arrive at the Irish border.

The UK government has passed regulations (the Cross-border Trade (Public Notices) (EU Exit) Regulations) to grant HMRC temporary powers to issue temporary VAT and excise notices after Brexit, generally to relax taxpayer obligations under VAT legislation. Each notice will have effect for no more than 60 days. It is conceivable that these regulations may specifically modify the position on the Irish border, as well as more broadly.

If There Is a Deal

If the UK leaves the EU with a deal, it will enter into a “transition period” until at least 31 December 2020. Pursuant to the terms of the transition period, the VAT rules will continue to apply in the UK and EU in an identical way to how they work now. The UK will not be able to amend its VAT regime in a way that is inconsistent with the provisions of the Principal VAT Directive and the UK will be bound by decisions of the European Court of Justice in relation to how its VAT laws must be interpreted. The VAT treatment for businesses in the UK making supplies in and to customers in the EU will remain unchanged, as will the VAT treatment for businesses in the EU making supplies in and to customers in the UK.

Note that the EU is planning extensive reform of the VAT system to come into force in 2022. If implemented, the new VAT system will change the treatment of intra-EU supplies, including by making cross-border EU trade between business subject to VAT. The extent to which the UK will adopt these changes after Brexit remains to be seen but, in any event, businesses should be aware that VAT may soon arise on international transactions regardless of Brexit.

The Effect on REACH and Other Regulations

How Will Brexit Impact Chemical Regulation?

There are significant impacts on both EU and UK aspects of chemical supply chains and a number of proposed measures to address these impacts, including new legislation and procedural dispensations, have been developed.

The legislative framework for chemicals in the EU consists primarily of the Regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and the Regulation on Classification, Labelling and Packaging of chemicals (CLP). There are other more sector specific regulations, such as those regarding biocides and pesticides. As EU Regulations, these apply directly in the EU member states without needing national implementing legislation. REACH biocides and some other regulations are also centrally administered by the European Chemicals Agency (ECHA) in Helsinki.

The main aims of REACH and CLP are to ensure a high level of protection for human health and the environment, by making industry responsible for demonstrating that chemicals placed on the EU market can be used safely throughout the supply chain and providing consistent information about their composition. They are among the largest and most complex EU Regulations, and companies have been working on REACH and CLP compliance through a series of transitional phases that have recently ended. Investment in REACH compliance in particular has been, and continues to be, significant. REACH is also becoming an international benchmark for other countries and a number have modelled their own systems on REACH.

Under REACH, substances must be registered by EU manufacturers and importers (unless the non-EU manufacturer appoints its own "only representative" in the EU). Companies that place on the market or use substances which are subject to authorisation also need to obtain authorisations or ensure these are obtained further up their supply chain.

If the UK leaves the EU in a no-deal scenario, or without an agreement on a future relationship in relation to REACH at the end of any transitional period, REACH would cease to apply in the UK. This would invalidate REACH registrations and authorisations held by UK companies. A parallel UK-only scheme, normally referred to as UK REACH, will replace REACH in the UK. Companies will need to take action to remain compliant with REACH, as well as to ensure compliance with UK REACH.

EU REACH

After Brexit, UK companies will no longer be EU legal entities and can no longer hold an EU REACH registration (i.e. EU REACH registrations may only be held by EU legal entities). This will, therefore, invalidate registrations and authorisations held by UK companies and would significantly impact their ability to sell products into the EU.

UK-based REACH registrants, therefore, need to transfer their registrations to an EU-27 legal entity if they want to retain the registration. This gives rise to a number of challenges because the EU REACH legal text does not provide for transfers of registrations without the transfer of an associated business. ECHA has, therefore, opened a "Brexit window" in its REACH IT system which will allow UK manufacturers to transfer their registrations to an EU-27 legal entity who will act as their "only representative" (OR) after Brexit. The OR is an EU entity which represents a non-EU manufacturer in REACH and submits and manages the REACH registration on its behalf, rather than EU importers having to do this. Note that this OR transfer route is only available to UK manufacturers and formulators, not to UK importers of chemicals. Importers will need to transfer their import business to an EU entity in order to be able to transfer their associated REACH registrations.

UK REACH

The European Union (Withdrawal) Act 2018 will convert REACH into UK law on exit day and create UK REACH. Therefore, UK REACH will place equivalent responsibilities and standards on UK companies as they have under REACH.

The REACH etc. (EU Exit) Regulations 2019 (which have already been amended several times) deal with "inoperabilities", such as changing references to ECHA and member states, and, crucially, put in place substantial transitional measures. The transitional measures are needed to ensure that companies can continue to operate in the UK without having to duplicate the whole REACH registration process on exit day.

However a number of actions do need to be taken promptly after exit day and full UK REACH dossiers will need to be submitted within two years of exit. UK REACH will also impose obligations on some companies that did not previously have to register under REACH, because they were previously buying from EU companies, but will now be considered importers under UK REACH, with associated registration obligations.

In the event that the Ireland/Northern Ireland Protocol

comes into force on 1 January 2021, without there being wider agreement between the EU and UK on REACH, a regulatory border would effectively be created between Northern Ireland and Britain as regards environmental/technical standards for goods, including REACH. The Protocol provides that REACH, CLP etc would continue to apply in Northern Ireland, but, without prejudice to that, the lawfulness of placing goods on the market in Northern Ireland is still governed by UK law.

The current UK REACH legislation is based on a no-deal scenario rather than a NI Protocol scenario, and so does not make any distinction between NI and the rest of the UK in terms of UK REACH applying, so that appears to set up a dual EU/UK REACH regulation regime in NI. However, presumably amendments could be made to the proposed UK REACH legislation to change this position if the Protocol was going to come into force.

What Does This Mean for UK Plastics Companies?

The implications for companies are dependent upon the activities carried out and the role played in the supply chain. The following sections provide examples of different roles in the supply chain and the issues and actions – more than one section may apply to the same company.

UK Company Manufacturing Chemical/ Polymer (Substance)

- Register under UK REACH with the UK agency (the HSE)
 - System of “grandfathering” operates for UK companies with existing REACH registrations:
 - Notification to the UK agency (using an IT system currently under development) within 120 Days of exit (basic information)
 - Register (full dossier) within two years of exit
- Check you have access to data associated with your REACH registration that you will need to use for UK REACH
- Appoint an EU OR to start acting on your behalf after exit in the EU-27 and wish to continue to do so
- Take steps to transfer existing REACH registrations to an EU OR, partially complete the process in REACH-IT with the final steps to take effect on exit

UK Company Importing Substances and Mixtures From the EU-27

- Previously a downstream user under REACH, but now an importer under UK REACH, therefore:
 - Notification to the UK agency of imported substances: 180 days after leaving the EU
 - Registration of imported substances: two years after leaving the EU
- Note that the non-UK manufacturer of the substance may instead appoint a UK OR to take on the registration duties of importers – as long as the OR notifies/registers within the above timescales, importer will not need to do so; discuss with your suppliers – are they intending to appoint UK ORs?
- Consider changing to a UK supplier, if necessary

UK Company Importing Substances and Mixtures From Outside the EU-27

- If you previously imported into the UK under your own REACH registration, you can grandfather this into UK REACH, as described for manufacturers above
- If you currently import through an OR arrangement, make sure your OR grandfathers their OR registration into UK REACH (and transfers their UK registration to an EU-27 OR if needed); alternatively, you could submit a UK-REACH importer notification and subsequent registration, as described above
- If you want to access the EU market, then you may be able to do that via the previous OR arrangement (if they transfer their REACH registration to an EU-27); alternatively, you will need to have your EU-27 importers register under REACH

UK Company Purchasing Substances/ Mixtures From UK Manufacturers

- Ensure your suppliers have, where relevant, notified (and later registered) their substances under UK REACH (e.g. there would be a UK REACH registration number on Safety Data Sheet)
- If you are then distributing the substances/mixtures to the EU-27, ensure your EU importers have relevant REACH registrations (Note that you cannot appoint an EU OR because you are not a manufacturer/formulator)



UK Company Formulating Mixtures and Selling to UK Market

- Ensure your suppliers have, where relevant, notified (and later registered) their substances under UK REACH (e.g. there would be a UK REACH registration number on Safety Data Sheet)
- Observe any REACH/UK REACH restrictions with regard to restricted substances in mixtures
- Declare to the downstream users the presence of any Substances of Very High Concern (SVHCs) which are or may be present in mixture

UK Company Formulating Mixtures and Selling to EU-27

- Ensure that all relevant ingredients are registered under UK REACH and REACH
- Ensure any UK-based substance manufacturer is maintaining REACH registration by transferring to an EU OR (otherwise EU customers will be importers with REACH registration obligations); alternatively, you could appoint your own OR in the EU
- May need to take note of REACH/UK REACH provisions on re-imports (if raw materials are imported from EU and final product sent back to EU)
- Observe any REACH/UK REACH restrictions with regard to restricted substances in mixtures
- Declare the presence of any SVHCs which are or may be present in mixture, to the downstream users
- If an SVHC is present in your article at 0.1% w/w or more and the quantity of the SVHC is more than 1 tonne per year, submit a notification to ECHA

UK Company Manufacturing Articles and Selling to UK Market

- Check your UK raw material suppliers have complied with UK REACH – or if you are importing raw materials, see above
- Observe any UK REACH restrictions with regard to restricted substances in articles
- Declare to the downstream users the presence of any SVHC which is or may be present in articles
- If an SVHC is present in your article at 0.1% w/w or more and the quantity of the SVHC is more than 1 tonne per year, submit a notification to UK agency
- Note supply chains are often long – your supplier may not be the manufacturer of the substances under discussion and your customer may not be the final user; know your supply chain!

UK Company Manufacturing Articles and Selling to the EU-27

- Check your UK raw material suppliers have complied with UK REACH – or if you are importing raw materials, see above
- Observe any REACH/UK REACH restrictions with regard to restricted substances in articles
- Declare to the downstream users the presence of any SVHC which is or may be present in articles
- Customers importing articles into the EU-27 may also have a declaration obligation for import of SVHCs (so may ask you for declarations about SVHC content)
- As noted above, it is critical to know your supply chain



UK Company Holding a REACH Authorisation

- Apply for the equivalent UK REACH authorisation – within 60 days post-exit – and supply the UK agency with technical information relating to the authorisation
- If you are awaiting an authorisation decision under REACH then you will need to reapply under UK REACH, but there is a streamlined process for applications where ECHA has already issued its final opinion (and companies can continue to place on the UK market provided they supply the relevant application information within 180 days of exit)

UK Downstream Users of a REACH Authorisation Held by an EU Company

- Confirm you are an existing authorised downstream user – within 60 days post-exit – and notify UK agency of existing EU authorisation, its conditions and the identity of supplier of the substance; you can then continue to rely on the authorisation
- If you are awaiting a decision for an authorisation application made by your EU/EEA-based supplier, you will no longer be able to benefit from that authorisation and will have to apply for a UK REACH authorisation; you are recommended to contact HSE to discuss this

Summary

- Change from REACH to UK REACH results in changes of regulatory status for many companies located in the UK and the EU
- It is critical for companies to fully understand their supply chains and their positions within them because this will dictate their obligations under both REACH and UK REACH
- UK companies in existing supply chains generally have a transition period under UK REACH, but still need to take initial actions and notify the UK agency
- The UK REACH IT platform is not yet available and remains in development, but is intended to go live at the point of Brexit
- Companies exporting products to the EU will also need to maintain their compliance with REACH in the EU-27 and some changes further up or down their supply chains may be needed
- BEIS' [Brexit Supply Chain Readiness Checklist](#) for the plastics industry
- Visit the HSE REACH [website](#)



Rules of Origin

Rules of origin are used to define where a product was made. There are two types of rules of origin applicable in two different situations:

- Non-preferential rules of origin apply when trade operates on a Most Favoured Nation (MFN) basis, i.e. outside of an FTA or customs union and under the World Trade Organisation (WTO) system.
- Preferential rules of origin apply where there is an agreed trade preference amongst parties, for example, an FTA. Countries only benefit from preferential treatment if they can prove their products originate in parties to the agreement.

As manufacturing supply chains can be complex and global, rules of origin are designed to make sure that significant manufacturing has taken place in the parties to the agreement.

This prevents manufacturers circumventing tariffs by routing exports through a party with a trade preference, and means that only manufacturers who significantly produce their products in the parties to a preferential agreement can benefit.

What Does This Mean for the Plastics Industry?

- In the event that the UK leaves the EU with a deal, and the UK is able to successfully negotiate preferential agreements, then the rules of origin going forward depend on what is stated in the provisions of those agreements.
- In general, for preferential origin, around 50% of value must be added. Post-Brexit what was once European value-added will have to be split into UK and EU value-added.
- In the event that the UK leaves the EU without a deal, the industry should consider the impact of losing EU origin status and the potential for non-preferential rules to apply to their exports and imports. Businesses should also consider the extent to which the UK has been able to negotiate continuity agreements with countries the EU has already concluded preferential agreements.

How Does It Work Now (Pre-Brexit)?

- As a member of the EU, the UK is part of the EU's Customs Union.
- This means that there are no tariffs or rules of origin on trade between the UK and the rest of the EU once goods have entered the EU market.
- A business in the UK can manufacture a product that has been processed in both Germany and Spain, for example, and it will be considered to be of EU origin and, therefore, it may benefit from the EU's FTAs concluded with countries such as Japan or South Korea.

What Will Happen in the Case of a No-deal Brexit?

- There will be no transition period. The UK would immediately move to the WTO trade regime.
- The UK will not be able to benefit from EU FTAs, so all goods of UK origin would immediately lose their EU origin. The preferential rules of origin for UK originating goods would only be applicable in case the UK can conclude independent trade deals/trade continuity agreements. At this moment, the UK has concluded these agreements with 11 countries or customs areas (Chile, Faroe Islands, Iceland, Norway, Israel, Lebanon, Liechtenstein, the Palestinian Authority, South Korea, Switzerland, and Tunisia) and with six trade blocs (the Andean countries, CARIFORUM, Central America, Eastern and Southern Africa, Pacific states, and Southern Africa Customs Union and Mozambique).

How Will the UK-EU Trade Deal Work?

- Details will be negotiated during the transition period if the withdrawal agreement is ratified, or for an indefinite period in the future in case of a no-deal Brexit.
- It is probable that the UK-EU trade deal (FTA) would provide zero tariffs in trade for industrial goods originating in the UK and EU. This FTA would set out its own preferential rules of origin.

What Does This Mean for the Plastics Industry?

- In a no-deal scenario, goods produced by plastics companies in the UK will no longer be of EU origin and will no longer benefit from any associated preferential treatment within the EU or under any EU and third partner FTAs.
- For goods to maintain their EU origin, members would need to satisfy the EU's rules of origin and prove that significant manufacturing has taken place within the EU.
- On the contrary, if goods are deemed to originate in the UK, they will be treated under MFN rules and will be subject to tariffs set by individual nations.
- The industry should consider the compliance costs of any updates in certificates or alterations in procedures for proving origin.
- Any UK independent FTAs will enter into force with their own preferential rules of origin.
- In case of a deal, nothing would change during the transition period. Afterwards, WTO rules, UK independent FTAs and the potential for a UK-EU FTA with its own preferential rules of origin may come into effect.

Benefiting From Reduced or Tariff-free Access

- The documentation required to prove a product has met a rule of origin varies by trade agreement.
- The EU currently requires a business to provide an invoice declaration with a "statement of origin" confirming that the product has met its rule.
- Sometimes, a business will also have to provide suppliers' declarations to prove where all the component parts of a product have come from.
- A Eur1 certificate, also known as a "movement certificate," enables importers in certain countries to import goods at a reduced or nil rate of import duty under trade agreements between the EU and beneficiary countries.
- Once the UK leaves the bloc (and after the transition period), proof of origin may be required to benefit from preferential rules of origin.
- Updated certificates will be available and are likely to be similar to those already in use. Retrospective certificates may also be needed where goods are in transit when the UK leaves the EU.

What Does This Mean for the Plastics Industry?

- Businesses will need to assess with which countries the UK has or has not been able to negotiate FTAs (continuity agreements) and how this will affect their trade in those regions.
- Businesses will need to address whether any different or updated certificates are required for proof of origin in order to benefit from the existence of any continuity agreements that are in place once the UK leaves the EU. They will also need to assess what non-preferential rules of origin may apply to them in the case where it has not been possible for the UK to successfully negotiate its continuity agreements or new FTAs.

What Will Happen After Brexit If the Withdrawal Agreement Is Ratified?

- The withdrawal agreement provides a transition period until the end of 2020 that might be extended. During the transition period, nothing should change. Businesses could expect their goods to maintain EU origin because the EU has announced that it would notify other countries with which it has FTAs that the UK should be treated as a part of the EU during any potential transition period. However, the final decision in this respect will depend largely on the country of destination.
- After the transition period, the UK will operate an independent trade policy. This means that, absent any agreement with the EU or any other country, it will operate under the WTO's MFN, non-preferential rules of origin with the EU and globally.

- It also means that goods largely produced in the UK will be considered to originate outside the EU, unless it can be proven that the goods are of EU origin.
- UK businesses will only be able to benefit from reduced or zero tariffs if their products comply with a rule of origin contained in an FTA concluded by the UK (and so-called "trade continuity agreements").
- Article 47 of the latest draft of the withdrawal agreement states that, where goods are placed on the EU market before the end of the transition period, which then move to the UK and, subsequently, back into the EU (and vice versa), this will be treated as an "intra-Union movement regarding importation and exportation licensing requirements in Union law".
- However, the customs status of goods placed on the market during the transition period will need to be proven for each movement. This means that the goods will not be presumed to be Union goods.

What About Northern Ireland?

- After the end of the transition period, if no other agreement between the EU and UK is concluded, the current draft of the withdrawal agreement (as agreed on 17 October 2019) stipulates that Northern Ireland would remain a part of the UK customs territory. All goods produced in Northern Ireland will have the UK origin only and would benefit from the UK independent FTAs.



CE Marking and UK Mark

Overview of CE Marking and Conformity Assessment Procedures

Currently within the EU, market access requirements are relatively standardised, as many product-specific requirements are governed by harmonised standards and regulations which are directly applicable in all EU member states. Each country may have some slight differences, for example, in relation to language requirements (and will have their own measures for enforcement to ensure compliance).

EU product safety and compliance requirements will carry over into UK law immediately on exit. In the event that the UK exits without a deal with the EU, the UK will be free to introduce changes to those requirements.

Background – Purpose of the CE Mark



The CE mark is a key indicator (but not proof) of a product's compliance with EU legislation. Most new products have to be marked with this mark, including medical devices,

some construction products, electrical products, pressure equipment, toys and machinery. However, some work equipment, typically equipment that is not powered or used for lifting, is not in the scope of the CE marking regime, for example, hand tools, racking or ladders. There are also some other products for which there are no harmonised standards across the EU and so CE marking is not required, such as furniture and some types of construction products.

CE marking is not intended to serve commercial purposes as a marketing tool, although it can help to indicate to customers that a product is declared to be compliant with EU standards. Rather, CE marking is the visible result of a whole process of conformity assessment. It essentially indicates that a product is declared by the manufacturer, the importer into the EU, or by a notified body in some circumstances, as being in conformity with harmonised EU legislation.

If you are supplying raw materials to a producer or manufacturer of a relevant product, they will be completing the Declaration of Compliance and technical file. However, you will likely need to provide them with the information that they need as to the performance and substances within the material you are supplying, so that they can include that information within the technical file that they are keeping and take it into account as part of their conformity assessment.

The mark enables the free movement of a product, regardless of whether it is manufactured in the UK, the EU or, indeed, in a third country, such as China or the US. Free movement is permitted because countries in the EU are not allowed to restrict the placing on the market of CE marked products, unless such measures can be justified on the basis of evidence that the product does not actually comply with the legal requirements. In summary, for a product that is CE marked, there is a presumption that it complies, rather than a presumption that it does not.

Requirements on Exit

What will be required for CE marked products on the day after exit if the UK leaves without a deal will depend on:

- Classification of the goods/product
- Whether they are currently certified by a notified body or CE marked by way of self-declaration by the manufacturer
- If certified by a notified body, where that notified body is based
- Where the goods are to be sold

Where CE Mark Is Required

Where the product is manufactured will actually have very little impact on CE marking because it is the “sale” of the product in certain countries which determines the mark required. A CE mark is required for relevant products sold in European Economic Area (EEA), which includes:

- Each of EU countries
- Three European Free Trade Agreement (EFTA) countries:
 - Iceland
 - Norway
 - Liechtenstein

Note that, although Switzerland is member of the EFTA, it does not take part in the EEA. Therefore, CE marking is not relevant for Switzerland. Note also that Turkey typically requires a CE mark for products regulated under CE marking procedures in EU.

If you are selling products outside of those countries, for example in the US, there is no need for a CE mark and, therefore, Brexit's impact on CE marking will have very little relevance to you.

Products to Be Sold Outside of the UK

Where a CE marked product is sold in the EU-27, the relevant EEA countries and Turkey, EU laws will still apply. Therefore, all products which currently require a CE mark to be sold in EEA will still require a CE mark after Brexit

In the event of a no-deal, the most complex arrangements will be where products are assessed by a UK notified body. Notified bodies are testing and certification bodies authorised by national bodies of the relevant country to certify a product as meeting the requirements. Examples of products which may be assessed by a notified body include certain medical devices, pressure equipment, higher risk machinery and gas appliances. Notified bodies can only act within their specific areas of competence, under the relevant product-specific directive or regulation. Each notified body has its own identification number which has to be given on any DoC, where a notified body has assessed the product.

For such products, the manufacturing conformity process will need to change from the date of exit. Products will need to be reassessed and re-marked by an EU-recognised conformity assessment body (unless files have already been transferred to an EU-recognised body pre-exit) because the EU regulations require that they be assessed by an EU body (and the UK will no longer be in the EU). However, recent government guidance advises that manufacturers should speak to their UK notified body to check if the body itself is taking steps so that export to the EU can be continued without needing CE conformity assessment certificates from a new, EU notified body (because a number of UK notified bodies have already aligned themselves with notified bodies in the EU). Some bodies have announced, for example, that they will still be able to provide services for certain types of product through their global networks.

It is expected there might be significant delays as manufacturers may be looking to re-certify their products with a limited number of notified bodies. Certification can, of course, take some time, particularly where testing is required. In current guidance, the government is alerting manufacturers of the option to assess goods against EU requirements by using designated third-country conformity assessment bodies for a limited time. These bodies will need to be based in countries that have concluded mutual recognition arrangements in relation to conformity assessment with the EU, for example Australia, New Zealand, Canada, the US, Japan and Switzerland. That may give some options outside of the EU if transferring assessment to an EU-based body is proving problematic short term.

For those manufacturers which have already transferred from a UK notified body to an EU-27 notified body, or will transfer, both the EU Declaration of Conformity and the Notified Body Certificate must also be updated to reflect the new notified body. Also, for products which are manufactured after the transfer has taken place, the new notified body number will need to be included on the product.

If a withdrawal deal is agreed between the EU and the UK, transitional arrangements for goods placed on the market under current provisions are likely to be put in place, meaning there will be time for recertification by an EU notified body.

Products to Be Sold in the UK



For products currently requiring the CE mark which are sold in the UK, the government has announced a replacement UKCA mark (standing for UK conformity assessment). The purpose of the UKCA mark will be to

indicate that the product has been assessed for conformity to UK standards (which, in the short term at least, will align with EU standards).

The length of time for producers to make the change over to this mark will depend on whether there is a deal or not and, if so, the relevant transition period agreed within the deal. Guidance states that you will need to take action if you are placing relevant goods on the UK market after exit, in terms of using a new UKCA mark.

Plastic producers should note that the Machinery Directive requires CE marking for most machinery, so equipment used for plastic production may also be affected by any changes to CE marking in the UK. Therefore, even if you are not producing products which require CE marking, it is worthwhile being aware of what the process will be post-Brexit, so that you understand what mark any new machinery you procure will bear, to demonstrate compliance with applicable standards.

Responsibilities of Economic Operators

Although the location of manufacture is not particularly relevant to considerations of what mark is required (because it is where it is sold that is key), where the product is manufactured may be relevant to the responsibilities of the manufacturer as an “economic operator”:

- For example, if a manufacturer is located in mainland Europe and is shipping products to the UK, their customer or representative will become an “importer” into the UK.
- Conversely, a manufacturer based in the UK who sends products for sale in an EU-27 country, will after exit date, be “exporting” to the EU and the EU distributor will become an “importer” and effectively take on the responsibilities for compliance with the conformity assessment and CE marking regime.

As a result, customers may well require more information in future as to what tests have been carried out and as to the contents of the technical file generally.

It is worth noting that the “importer” into the UK will also bear responsibilities not to place a product on the UK market if they are aware that a product does not comply with essential requirements, which may mean that UK distributors ultimately seek more assurances (contractual or otherwise) from the EU-producer as to compliance as well.

Enforcement of New Requirements

In the UK, the government has indicated that Trading Standards will likely take a practical approach to enforcement. Therefore, in general an “informal” grace period is likely for the changeover to the UKCA mark, even if this is not set out within a deal with the EU.

If there is a deal, it is likely that the EU will agree that producers can continue to use the CE mark for a transitional period, even if it has been assessed by a UK notified body, but there will of course be an end-date on that.

If there is no deal, remember that EU laws apply across all of the member states and they are enforced through relevant enforcement agencies in each country. EU member states could enforce against what will be “non-compliant” products from the date of exit. There are national provisions in each EU country which dictate who enforces EU regulations in that country and what the enforcement regime/penalties are. In practice, therefore, whether or not national authorities allow a period of grace and, if so, what that period will be, may well vary from country to country. Individual countries will, however, have limited competency to make a decision on a formal “grace period” unilaterally (i.e. outside of the EU position). It is unlikely there will be much certainty around this unless or until matters are agreed or it is clear the UK is leaving without a deal, although some countries have given indications that for essential medical devices there may be some derogations.

Name and Address of Manufacturer

In addition to CE marking requirements, producers should also consider whether the name and address on the product labelling will need to be changed after the UK exits from the EU. Even products which are not covered by specific regulations require the name and address of the producer to be given (under the provisions of the EU Directive on general product safety). The producer is generally defined as the manufacturer, but only where the manufacturer is located in the EU. Otherwise, the producer is the manufacturer’s representative or the importer into the EU. Therefore, all those products which currently bear the name of a UK manufacturer and will continue to be exported to the EU after exit, will likely need to be changed.

Similarly, where distributors bring products in from the EU to the UK, they will in most cases be classified as “importers” to the UK after exit from the EU, i.e. bringing in products to the UK from a third country. These “importers” to the UK will, therefore, need to label their products with their name and address (as opposed to the current position where, if the producer is established in the EU, that producer’s name and address will be given on the packaging). The UK government have, however, indicated that there will be a transitional period of 18 months for UK businesses to make these changes and in the interim period, the “importer” information can be put on an accompanying document, rather than on the product itself.

Existing Stocks and Determining When Product is Placed on the Market

Where changes to CE marking or other labelling is required, economic operators in the supply chain should consider when the relevant product is placed on the market because if it is placed on the EU market before the date that the UK leaves the EU, then it is compliant with the requirements for CE marking, even if it remains on sale after that because CE marking obligations relate to what is required before a product is placed on the market.

The EU have produced some “question and answer” guidance around when a product is placed on the market for these purposes, specifically in relation to Brexit, and has confirmed:

- Goods already in the distribution chain in the EU-27 market, such as a cosmetic product held in an EU country by a wholesaler with a view to onward distribution, or on a shelf has already been placed on the market, so re-marking, for example, if required testing has been undertaken by a UK-notified body, will not be required.
- Goods which have been manufactured and sold to an EU-customer before the withdrawal date, but which have not yet been physically delivered, again, will be deemed to have been placed on the market before Brexit.
- Goods imported to the UK from a third country, i.e. a country outside the EU (such as the US), and subsequently sold to a customer in mainland Europe before the withdrawal date, but not delivered until afterwards, again, will be deemed to have been placed on the market before Brexit, because “delivery” or “transfer” of the goods is not required for the goods to be placed on the market.
- However, the position is more complex where there is machinery manufactured in the US (or another third country) and certified by a UK notified body, which is sold to a UK wholesaler before the exit date (when the UK is still in the EU), but is not sold to an EU-27 factory until after exit date. For that example, the EU Commission states that the relevant product will be deemed to be placed on the market after withdrawal because the first time that it is sold to an EU-27 country is after exit. That perhaps seems arguable because, as at the point the product is imported into the UK, the UK is still in the EU. However, that is the guidance from the European Commission and, therefore, that is what any customers in the EU are likely to rely on.

Where you have placed a product on the market prior to withdrawal, it would be helpful to retain information and documentation to evidence this, if required to do so by EU enforcement authorities in future. Retention of typical sale documentation, such as the contract, invoices and shipping information, may be helpful for this purpose.

The EU Commission notes in its guidance that such proof might be required in practice if importation into an EU-27 country is actually after the withdrawal date, i.e. as part of customs checks.

Summary: Preparation for Exit

In summary, the BPF would recommend that plastic producers and distributors in the EU and UK, in preparation for Brexit, take a number of steps:

- Review the product portfolio:
 - Identify products which are CE marked/require CE marking
 - Identify which products are sold in the UK and/or EEA
 - Identify products which are certified by a UK-based notified body
 - Identify appropriate EU-based notified body if re-certification will be required (or a third country notified body with mutual recognition agreement)
- For UK-certified products, arrange for re-certification (from exit date if no-deal), update DoC and Notified Body Certificate and update notified body number for products manufactured after transfer of Certificate
- For products to be sold in the UK, identify timeline to change mark to UKCA (may be immediate although enforcement authorities in UK likely to allow a grace period for change)

These preparations will be relevant regardless of whether the UK leaves with or without a deal – in reality, whether or not there is a deal will only impact upon the speed of change required.



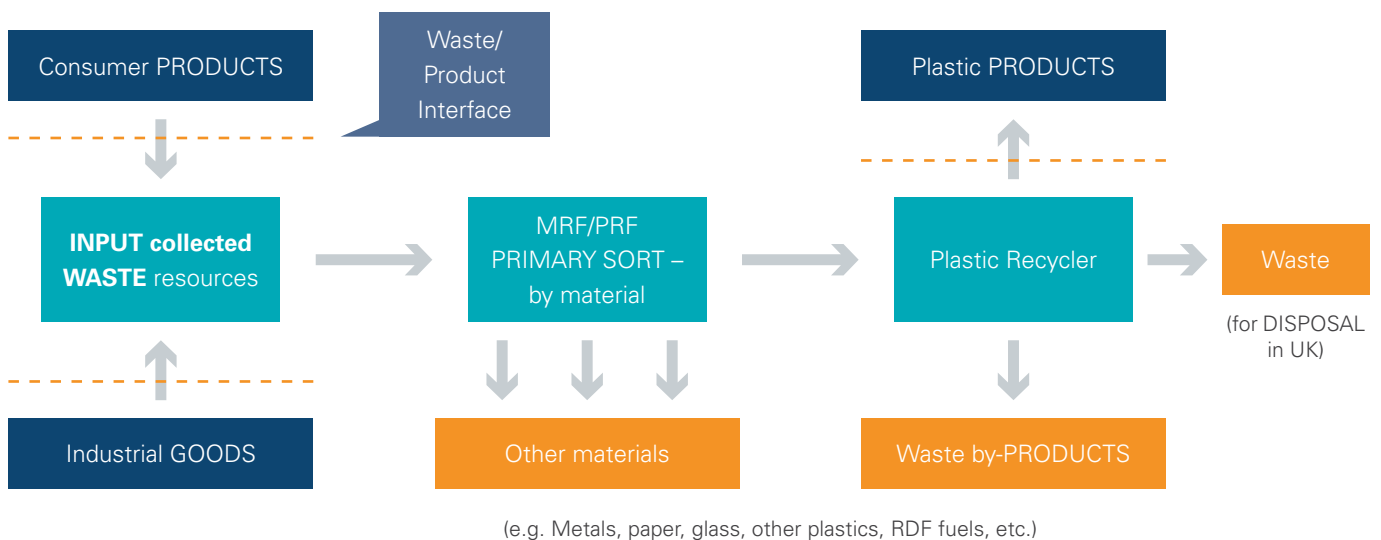
Recycling

How Plastics Recyclers Are Different From Other Plastics Industry Businesses

Plastics recycling operations are essentially part of a fairly complex material flow system within the consumer economy. Working in partnership with waste collection service providers and primary material sorting sites (i.e. typically MRFs or PRFs), the plastics recycler aims to return waste input raw materials into high-quality product outputs for use back in the manufacturing. During the flow-process from end-of-life disposal to output as either “new” recycled plastics or as a waste/by-product stream, the materials pass across the invisible, but legally significant, “Waste: Product” interface in terms of the regulations and licensing that applies to transport, handling and treatment.

For operating businesses working in the waste resources recycling industry, the access to European and overseas markets for both “end-of-waste” products and intermediate, part-sorted waste resources forms a vital part of day-to-day activities. Hence it is important to have clarity and understanding of how the trans-frontier movements of both waste and goods (i.e. recycled plastic products) will operate in a post-Brexit scenario.

Product and Waste Flow – Plastics Recycling Industry



Keeping Waste Materials Moving

The waste resources industry is essentially a huge, fast-response logistics operation providing a vital, daily service at the “waste input” end of the chain and has to keep multiple output mass-flows running in balance with the rate of material collection. This requires:

- Access to vehicles of the right design and licensed status
- Drivers with the correct license status – UK and EU
- Access to fuel for those mobile assets
- Access to depots and processing sites for the handling, storage and treatment of the waste materials

Potential Risks

The following potential risks have been identified by the BPF in discussions with stakeholders:

- Fuel supply becomes rapidly limited due to hold-ups at ports and local road-networks near fuel storage depots become inaccessible. (Possible after first few days of significant disruption to import movement of fuel, but recent comment from DEFRA indicates this is not judged to be a likely scenario).
- Vehicles are held-up for long periods in areas of particularly high-density traffic jams, such as the South East.
- Drivers for those vehicles become very poorly utilised and productive driving hours are lost in hold-ups. Transit routes across EU borders involve multiple stops for customs declarations – each with significant delay (one to four hours).
- European transport operators decide to avoid sending lorries into UK as a short-term way to avoid the hassle.
- Waste storage and handling sites operate as fast turnaround units. Waste collection firms will come under significant political pressure to keep the inflow from households and public sector premises operating “as normal”. Waste transfer sites will probably fill up rapidly (within the first few days/weeks). The need to find suitable alternative, emergency locations that can be converted rapidly into temporary waste storage locations will become pressing and put high stress on local EA authorities to permit these for emergency use.
- Significant tonnages of recyclable materials have to be sent to UK landfill for disposal.

Export/Import Through UK Channel Port

DEFRA have recently presented their current understanding of the issues and changes facing UK companies needing to access flow of waste materials as both imports from and exports into the EU.

The advice being given is that “Waste Regulations are designed in an international framework, and thus will, to a large extent remain unchanged post-Brexit”. In some instances, the change of status for the UK from a European member state (EU MS) to becoming a third country means that there is a shift in position regarding EU exports to UK post the Brexit date. Plus the ability to ship waste to OECD countries and non-OECD countries has to be viewed from this different perspective.

DEFRA statement from October 3rd Stakeholder event: “We are confident that there are no domestic legislative or administrative barriers to prevent the normal movement of waste when we leave the EU.”

- The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 were debated in Parliament at the end of February and were made UK law on 14 March.
- DEFRA’s aim through this statutory instrument is to maintain the status quo as far as is reasonably possible and provide certainty and continuity for the regulation of international waste shipments.
- The International Waste Shipments (Amendment) (EU Exit) Regulations 2019 essentially transposes and amends existing EU regulations into UK law and removes redundant and unnecessary clauses post-exit.

Two main types of waste that can be exported for recycling or recovery are:

- Green List Wastes (under an Annex VII shipping note)
 - For both UK imports and exports of waste for recovery – no practical changes anticipated
 - UK Exports to non-OECD countries – UK will rely on the existing EU Regulation EC Reg. 1418/2007; as soon as the UK leaves the EU DEFRA, plan to write to every non-OECD country to confirm export control procedures (some risk here for plastics recyclers)
- Imports of waste and exports of Notified Waste (typically for hazardous wastes) for recovery

- No practical changes anticipated as a result of exit legislation
- EU will treat UK as an OECD Decision country
- UK will maintain the current provision in the EU Regulation that prohibits the export of hazardous waste to non-OECD countries
- All UK and EU consents to ship notified waste between the UK and the EU will remain valid should the UK leave the EU without a withdrawal agreement in place
- TFS shipment agreements (e.g. for long-term RDF contracts into EU EfW plants) will “rollover” and continue.

The key risk for exporters of waste (both Green List and Notifiable) is to ensure that their appointed haulier is aware of changes in the customs procedure and flow of documentation required to avoid hold-up at ports.

To make sure that the haulier is properly authorised to ship waste loads through transit countries and for final delivery at the end-destination recovery or recycling location, refer to the [government guidance](#).

Potential Risks

The following potential risks have been identified by the BPF in discussions with stakeholders:

- Transport hauliers may not be properly prepared or authorised for the intended route of transit to end destination.
- Customs shipping agents are reported to be experiencing huge increases in workload in preparation for Brexit – many are reluctant to expend significant time and resources in preparing for a no-deal, judging this to be the least likely of outcomes.
- Delays may occur for several weeks (or months) immediately post-Brexit. Capacity may well be severely reduced by both trucks held up for one to two days accessing Channel Ports and some EU transport operators avoiding the UK in the risk period.
- There is likely to be a big reduction in the availability of curtain-sider backhaul loads into Europe – a route that many secondary material and waste-to-energy firms utilize due to commercial necessity.
- Costs of transport to/from Europe are most likely to increase as a result.

Mitigating Steps

- Ensure shipping contract commercial terms and service agreements specifically define who is responsible for extra costs of delay caused by the customs disruption.
- There may be an urgent need to find alternative storage locations inside the UK in order to keep the flow of output waste and product streams moving away from operating plants – availability of legally approved and licenced storage space is expected to be very limited in this period. On a positive note, generally, sorted bales of waste plastics materials (e.g. bottles or films) can be stored outside without huge negative impacts on the materials, unlike paper bales.
- Those recyclers who create a significant tonnage of RDF (or SRF) waste fuel by-products within their processing plants may find extra pressures impacting upon the high-volume flows of material into EU EfW outlets. Recent announcements by Dutch authorities to charge a tax on imported RDF tonnages and increased financial pressure on waste fuel trading firms (e.g. need for larger customs bonds to be held) will make this already tight-margin business look less attractive as a going business proposition.
- In order to keep high volume recycling plants running, most UK operators can expect to be faced with a lack of willing outlets for their RDF fractions. The only viable alternative will be accepting disposal to landfill, with the associated increase in costs (estimate 30% – 60% cost increase per tonne, depending on location in UK due to landfill limitations – especially South East).

REACH Issues for Plastics Recyclers

Article 2(7)(d) Exemption From Registration for Recycled Plastics

Recycled materials and plastic compounds were originally given a partial exemption from the full-registration process of REACH under Article 2(7d) when the legislation was first introduced in 2007, as follows:

“Substances, on their own, in preparations or in articles, which have been registered, which are recovered (i.e. recycled) in the Community if:

- The substance that results from the recovery process is the same as the substance that has been registered; and
- Information required by Articles 31 or 32 of REACH relating to the substance that has been registered is available to the establishment undertaking the recovery.”

There were two logical reasons for granting this exemption in 2007:

- Recyclers operate at the interface between waste and product legislation – they cannot track back down their raw material supply chain asking for SDS and COSH certificates because their “suppliers” are waste processors (not covered by REACH).
- It was judged that plastic molecules being recycled must have already been registered by the original producer in their previous lifetime.

The key phrase “recovered in the Community” will no longer apply for UK firms post-exit from the EU. Hence, the exemption falls away for UK plastics recyclers. While the transposed legislation to create the UK REACH is expected to uphold this type of exemption for UK-based re-processors supplying inside the UK, it is possible that UK recyclers will be expected to apply for full registration in order to continue to supply into EU MS. However, expert opinion in UK plastics industry is that this was never the intention of the phrase and that, for the past 20 years, importers of recycled plastics into the EU have not been expected to make full registration.

Potential Risks

The following potential risks have been identified by the BPF in discussions with stakeholders:

- UK recyclers **not** able to supply plastic product to existing EU customers immediately post EU-exit day.
- Time delay between exit day and completing of new registration requirements for continued access to EU markets.

Impact

- Long delays, extra administrative burden and extra registration costs (circa €2,000 – €3,000 per registration) for each monomer supplied.
- Loss of EU customers who find alternative EU-based competitor raw material supply in reaction to above difficulties.



European Food Standards – Approvals Process for Food Contact of Recycled Plastics

At the time of writing, there are currently no formal approvals in place for UK recyclers of PET or HDPE (in the blow-moulded bottle markets). Existing recyclers continue to produce r-PET and r-HDPE recycled plastics on the basis that their huge dossiers of information have been submitted for assessment many years previously and have not (to date) been either formally approved or rejected by EFSA.

A recent memo from the EU Commission (March 2019) addresses the change in status resulting from the withdrawal agreement of 2017:

“Requirements for food business operators and authorisation holders, or their representatives, to be established in the EU; submission of EU authorisation requests through an EU member state

- Article 15(1)(c) of regulation (eu) no 1935/2004 on materials and articles intended to come into contact with food, requires, as regards materials and articles which are not yet in contact with food, the manufacturer, processor, or seller responsible for placing on the market to be established in the EU.
- As of the withdrawal date, establishment in the United Kingdom no longer complies with these requirements.
- Recycled plastic materials and articles intended to come into contact with food- According to EU law, authorisation holders shall notify to the Commission manufacturing or recycling sites in third countries in which the recycling process of plastic materials and articles authorised pursuant to Regulation (EC) No 282/2008 takes place.”

Post-Brexit there may be a different view taken by EFSA in relation to UK company approvals that are effectively stuck in the process. The ongoing relationship between the UK competent authority and EFSA is likely to be critical for continued business in EU-27 MS.



Impact

Possible withdrawal of tacit “approval” (not a rejection) of UK-based food standard processing authorisation by EU EFSA organisation would create an **urgent** need for the UK equivalent approvals and administration body (currently “Trading Standards”) to agree EU access for UK recycled food-contact grades and (possibly) articles made from those polymers (e.g. PET pre-forms for bottles).

Mitigation

On a pragmatic commercial basis, most UK produced recycled food-grade plastics are converted into bottles and containers in UK plants to supply liquid foodstuffs to the local consumer markets. Hence, the real financial impact of this change on UK recyclers may be quite low (unless filled and unfilled product is being exported into the EU). The setting up of and approval from a UK-based competent authority may eventually be an advantage in overcoming longstanding very slow response from EFSA.

Employees and Staff

The waste and recycling sector typically has a much higher percentage of workers from within the EU than most other industry sectors. This is particularly true in the lower-paid, manual workers roles. Some sectors estimate 40% – 60% of the operative workforce are predominantly of Eastern European origin. Lack of awareness and poor language skills increase the chance that workers have not taken necessary steps to remain in the UK. Plus, feelings of being “unwanted” by the UK citizens, coupled with a reduced “added value” in terms of earnings may lead to many deciding to return to their home country and/or new workers deciding not to come to the UK for jobs. Hence, there is a higher exposure to the problems of worker retention and accessing new employees for waste-to-plastic recyclers.

Risk

The following risks have been identified by the BPF in discussions with stakeholders:

- Significant proportion of existing EU staff fail to follow correct administrative steps to be given rights to remain and stay living and working the UK.
- Plastics recyclers not able to retain existing staff or access the numbers and skill types needed in future employment efforts.

Mitigation

- Employers need to check that the correct papers are in place to enable workers (and their family) to remain in the UK after December 2020. Companies should encourage and check that staff from European countries have made the necessary checks, applications and new arrangements in good time.

There is a good set of guide questions on the [gov.uk website](https://www.gov.uk).

Options include:

- EU Settlement scheme
 - [Apply for UK citizenship](#)



Rules of Origin

Nearly all of recycled plastics are created from 100% (or near 100%) waste inputs, so the majority of the economic value is added inside the UK.

Therefore, Rules of Origin should be “no problem” for plastics recyclers, unless they are using imported part-sorted raw materials, such as baled PET bottles from Europe converted into r-PET for tray making which is then exported out again.

On balance, not very likely to attract much concern in the early stages of the disruptive period.

Employment of EU Citizens: Some Frequently Asked Questions

The UK plastics industry employs around 20,000 non-UK EU staff, representing an estimated 11% of all permanent staff. In addition, around half of all temporary workers in the UK plastics industry are from the EU.

To help employees understand the ramifications of the EU exit on their employees we have set out some frequently asked questions based on information provided by the Department for Business, Energy and Industrial Strategy.

Q: Are there any new obligations on me as an employer in relation to the EU citizens I employ?

No, there are no new obligations on you as an employer. It is the responsibility of the individual to make an application to the EU Settlement Scheme. There is no requirement for the individual to inform you, as an employer, that they have applied, or the outcome of their application. Likewise, you are not required to check that an employee has applied.

Q: Given the uncertainty about the future, can I factor EU citizenship into my employment decisions (i.e. can I dismiss employees because they are EU citizens)?

No. You have a duty not to discriminate against EU citizens in light of the UK's decision to leave the EU, as both a prospective and current employer. You cannot make an offer of employment, or continued employment, dependent on an individual having made an application.

Q: If I do not have to do anything, and the EU citizens I employ choose not to, what happens?

There will be no change to the rights and status of EU citizens living in the UK until 30 June 2021. However, you may wish to encourage the EU citizens you employ to find out about the EU Settlement Scheme, as they may wish to apply.

Q: I will need to employ EU citizens in the near future – do I need to do anything different to the way I do so currently?

Current “right to work” checks (e.g. passport and/or national identity card) apply until the end of 2020. EU citizens can also evidence their right to work using the online right to work service, if they choose to do so. However, they are under no obligation to demonstrate their right to work in this way.

Q: If, in the future, a skills-based immigration system is implemented, will my existing EU employees be subject to retrospective tests?

You will not be required to undertake retrospective checks on existing EU employees when the UK transitions to the future skills-based immigration system.

Q: I/my employees are interested in the scheme. What do I need to do?

The Home Office has suggested three avenues to find out more.

The first is to access the [scheme guidance](#).

The second is for you to look at the [employer toolkit](#).

– You may wish to download communication materials to share with your EU citizen employees.

The third is to refer your employers to the [application start page](#).

Q: I want to continue to employ EU citizens who come to the UK after Brexit. Will that be possible and what do those citizens need to do?

After Brexit, EU citizens who move to the UK will be able to apply for a 36-month temporary immigration status – European Temporary Leave to Remain (Euro TLR).

Applications to the new Euro TLR scheme will be simple and free, and will be made after arrival in the UK. There will be no need for EU citizens travelling to the UK after Brexit to make any special arrangements in advance.

There will be some visible changes at the UK border, as well as tougher rules for criminals, but, otherwise, EU citizens will be able to cross the UK border as they do now.

EU citizens who move to the UK after Brexit and who do not apply for Euro TLR will need to leave the UK by 31 December 2020, unless they have obtained a UK immigration status under the UK's new points-based immigration system.

Q. Where can I find our more information?

For complete guidance, please visit the [gov.uk website](#). The following sections will be of particular relevance:

- EU Settlement Scheme: employer toolkit
- Moving to the UK after Brexit: EU citizens and their families
- Right to work checks on EU citizens if the UK leaves the EU without a deal

Brexit Readiness Checklist



Import and Export

Check what steps you need to take in order to import goods from the EU

If you do not get your business ready, you may not be able to import goods into the UK from EU countries.

[Get your business ready to import from the EU to the UK after Brexit](#)

Register for a quicker way to move your goods to the EU

Your goods may be delayed or rejected when they reach the EU if you do not register.

[Moving goods between or through common transit countries, including the EU](#)

Decide whether to get an agent or make declarations yourself

You may not be able to trade goods with the EU if you do not get your business ready.

[Placing manufactured goods on the EU market after Brexit](#)

Check if you need to appoint a representative in the EU, and label your goods with your EU importer's details

If you do not meet the requirements, you may not be able to export goods to the EU.

[Placing manufactured goods on the EU market after Brexit](#)

If you are exporting, prepare for how you will make your customs declaration

If you are a UK-based business bringing or receiving goods from outside of the EU, you must complete an import declaration to get your goods through customs.

[Customs declarations for goods you bring or receive into the EU](#)

Ensure that you have the correct commodity code for any goods you are importing

Find a commodity code to classify your goods and look up duty rates, reliefs and quotas.

[Finding commodity codes for imports into or exports out of the EU](#)



EORI and TSP

Get an EORI number that starts with GB to move your goods into or out of the EU

You will not be able to buy goods from, or sell goods to, the EU without an EORI number. It takes up to a week.

[Get ready to move goods between or through common transit countries, including the EU](#)

[Get an EORI number that starts with GB to move your goods into or out of the EU](#)

Register for Transitional Simplified Procedures (TSP) to make it easier to import goods from the EU

You will need to make full import declarations each time you buy goods from the EU if you do not use TSP. It takes two to four weeks.

[Register for TSP to make it easier to import goods from the EU](#)

REACH

If you buy chemicals from the EU, you will need to register on the new UK REACH system

You may not be able to bring chemicals into the UK if you do not register. If you produce and place chemicals on the UK market, you will still need to register for the new UK REACH system. It usually takes up to six weeks, so you should begin this process as soon as possible.

[How to comply with REACH regulations](#)

[REACH: What you'll need to do in a no-deal scenario](#)

VAT, Tariffs and Duties

Check if you need to pay a tariff on goods you import from the EU

Your goods will be held at customs if you do not pay the correct tariff.

[Check temporary rates of customs duty \(tariffs\) on imports after a no-deal Brexit](#)

Set up a "duty deferment account" to pay your customs duties, import VAT and excise duties monthly by direct debit, if you need to pay duty

You will need to pay your import duties as soon as your goods pass through customs if you do not have a "duty deferment account". It takes up to one week.

[Customs procedures if the UK leaves the EU without a deal – deferring duty](#)

[Set up a "duty deferment account" to pay your customs duties, import VAT and excise duties monthly by direct debit, if you need to pay duty](#)

Find out whether you will be affected by any changes to VAT rules

You will need to understand how a no-deal scenario could affect your business and begin to take steps to mitigate against such risks.

[VAT for businesses if there is no Brexit deal](#)

Transportation of Goods

Check if your customers can give you the right documents for trade with the EU, if you are a haulier

You may not be able to transport goods through the EU if your customers do not give you the right documents. It takes more than four weeks to complete this process.

[International road haulage: no-deal Brexit haulier checklist](#)

Check what documents you need to transport goods through the EU, if you are a haulier

You will not be able to transport haulage goods through the EU without the right documents. It takes more than four weeks to complete this process.

[Carry out international road haulage after Brexit](#)

Check if you need to apply for a permit for journeys through or between EU countries

You may not be able to transport goods through or between EU countries without an ECMT permit. It takes up to two weeks.

[ECMT international road haulage permits](#)

Find out how to exchange your UK Driver Certificate of Professional Competence (CPC) for an EU Driver CPC

You will not be able to drive a lorry for an EU operator if you do not have an EU Driver CPC.

[Drive in the EU after Brexit: lorry and goods vehicle drivers](#)

CE Marking

Check if you need to change your conformity assessment or conformity marking to sell your CE marked goods in the UK or the EU

In most cases, you can continue using the CE marking in the EU and the UK (although, in some cases, you may need to transfer your certificate of conformity to an EU conformity assessment body) – but if your good requires UKCA marking and you have not used it, it will not be valid for sale in the UK.

[Prepare to use the UKCA mark after Brexit](#)

Employment

Check if your employees need a visa or work permit and meet any requirements for their profession to work in the country they are going to

You or your employees may not be able to enter or work in some countries.

[Providing services to any country in the EU, Iceland, Liechtenstein, Norway or Switzerland after Brexit](#)

Ask your employees to check if they need to apply to the EU Settlement Scheme

Your employees may not be able to continue living or working in the UK as they do now, if they do not apply to the scheme.

[Apply to the EU Settlement Scheme \(settled and pre-settled status\)](#)

Accounting and Reporting

Check if you need to change how you do accounting and reporting

You may breach reporting requirements in EEA countries if you do not make any changes you need to.

[Accounting if there is a no-deal Brexit](#)

Data

Check if you need to change your contract to keep accessing personal data from the EU

You will not be able to access personal data from the EU without the right contract.

[Check if you need to change your contract to keep accessing personal data from the EU](#)

[Using personal data in your business or organisation if there is no Brexit deal](#)



Intellectual Property and Trademarks

Check if you need permission to sell someone's intellectual property in the EEA, if you have already sold it in the UK

You may not be able to export your intellectual property protected products from the UK to the EEA without the right permission.

[Brexit and exhaustion of intellectual property rights](#)

Disclose your designs before 31 October if you want unregistered protection in the UK and the EU

If you do not do this before 31 October, you will only have protection where you first showed your design, either the UK or the EU.

Changes to registered design, design rights and international design [and trademark law if the UK leaves the EU without a deal](#)

Other Considerations

Prepare for loss of access to EU ETS and other EU registry accounts after Brexit

You will not be able to access accounts in the EU Emissions Trading System Union Registry administered by the UK and accounts in the Kyoto Protocol National Registry of the UK.

[Meeting climate change requirements if there is no Brexit deal](#)

Check if your third-party conformity assessment for construction products is still recognised by the EU

If your conformity assessment is not held by an EU-recognised body, you will not be able to sell your products in the EU.

[Construction Products Regulation if there is no Brexit deal](#)

Get legal advice if your business is merging with an EU company

If you do not follow the rules, you may be investigated by the Competition and Markets Authority (CMA) and the European Commission.

[Merger review and anti-competitive activity after Brexit](#)

If you have a Horizon 2020 project, ensure you register it with the UK government

The UK government has underwritten the funding of Horizon 2020 projects if the UK exits the EU under certain circumstances. If you have a Horizon 2020 project, ensure you register it with the UK government.

[Horizon 2020: UK government underwrite guarantee](#)

Contributors

British Plastics Federation

The British Plastics Federation (BPF) is the world's longest running plastics trade association, established in 1933 to represent the UK industry.

It has over 450 members that span across the supply chain. This includes plastics recyclers, polymer producers and suppliers, additive manufacturers, services providers, end users, plastics processors and machinery manufacturers, in total representing over 80% of the industry by turnover.

The main purpose of the BPF is to promote a successful UK plastics sector, which it does by providing membership services to the different BPF groups, including projects, events, updates, research and other activities.

The BPF also works on industry-wide issues such as sustainability, safety and education.

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Squire Patton Boggs

Through our longstanding relationship with the BPF and the industry generally, we are pleased to work in partnership on this guidance document.

For more than 100 years, manufacturing, engineering and distribution companies have looked to Squire Patton Boggs for creative solutions to their commercial challenges. Our specialist lawyers are familiar with our clients' diverse products, technologies and business models and can provide them with the comprehensive services they need to succeed in the global market.

We are now working closely with BPF to help its members and the wider plastics industry with a variety of legal and regulatory issues as they prepare for the UK's exit from the EU. With one of the strongest integrated global platforms, we can help manage your industry concerns in the UK and overseas as you navigate the challenges and opportunities following the Brexit vote.

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