

## Questions and answers from Brexit Webinar

### Chemicals Part 2 CLP, Detergents & Rotterdam Regulations session

#### What you need to do if you source chemical products from the UK

**Q. *What requirements are there under the CLP Regulation for a formulator/blender who purchases their product in the EU and is REACH compliant?***

**A.** Where a formulator of mixtures based in the EU buys their product from within the EU, the chemical substances or mixtures should be compliant with EU legislation with regard to the REACH, CLP and Detergents Regulations.

Checks should be carried out, however, to ensure compliance of the hazard classification and information in the safety data sheet (SDS) in particular, as this information will be required to be used by the formulator to determine the classification of the mixture and, as relevant, to compile a hazard label and SDS for the final mixture.

**Q. *What are the requirements under the CLP Regulation when a blender/manufacturer in the UK purchases their substance in the EU and is REACH compliant and then export the substance to Ireland?***

**A.** Where a company based in the UK (England/Scotland/Wales) is acting as a distributor **only** for a substance originating in the EU and distributing the substance to an Irish company without changing the substance or the labelling/packaging of that substance, then there are no added obligations on the Irish company after the 1<sup>st</sup> Jan 2021 as the substance should be compliant with EU legislation, having originated within the EU. A check would be required to ensure that labelling and the SDS is in the English language.

**Q. *What are the requirements for a distributor of a product made in Great Britain and supplied in the manufacturers packaging? After 1<sup>st</sup> Jan 2021 will there be a requirement to change the labelling on the pack or add Irish address?***

**A.** From the 1<sup>st</sup> Jan 2021, if an Irish company continues to directly source chemicals from Great Britain (GB), their role will no longer be a distributor under the REACH and CLP Regulations. They will be an importer of chemicals into the EU under the Regulations. Therefore, as the importer of the product into the EU, the Irish company must put their EU supplier details on the hazard label as required by the CLP Regulation. The term supplier in the CLP Regulation refers to *any manufacturer, importer, downstream user or distributor placing on the market a substance, on its own or in a mixture, or a mixture*. The definitions for each of these actors in the Regulation further elaborate that they are *any natural or legal person established within the Community*.

Therefore, it is the EU-based supplier who must be named and provide their address and telephone no. on the hazard label (as per Art. 17(1)(a) of CLP).

Importantly, from the 1<sup>st</sup> Jan 2021, as an importer, the Irish company will be also responsible for ensuring that the correct hazard classification is applied to the product and that in turn the hazard label and associated packaging is compliant.

The importing Irish company will also be responsible for ensuring the accuracy of the accompanying safety data sheet (SDS) and ensuring that their supplier details are provided in section 1.3 of the SDS.

Notification to the National Information Poisons Centre (NPIC) may be required if the product imported is a mixture classified for physical and/or human health effects – please see more details here: <https://www.poisons.ie/Manufacturers/Product-Registration> and <https://poisoncentres.echa.europa.eu/>.

Notification to the classification and labelling inventory at ECHA may also be required. Please see <https://echa.europa.eu/regulations/clp/cl-inventory> for more information.

**Q. Do we know if the SDS format as currently exists under EU REACH will be the same for UK REACH.**

A. It is best to keep a check of the information provided by the UK Government at <https://www.hse.gov.uk/brexit/index.htm> and <https://www.gov.uk/guidance/how-to-comply-with-reach-chemical-regulations> for details on UK rules applying to SDSs.

**Q. Why do we need to notify to ECHA if we have registered the substance already?**

A. Notification to the classification and labelling inventory at ECHA is required for all substances which are subject to registration under REACH and placed on the market. This includes substances on their own, substances contained in mixtures and certain substances contained in articles where REACH Article 7 provides for their registration. Notification of these substances is not necessary where a manufacturer, importer or Only Representative (OR) has already registered the substance with details of the classification and labelling according to CLP in the registration dossier.

Please see the ECHA website for more information: <https://echa.europa.eu/regulations/clp/cl-inventory>.

**Q. If a UK supplier appoints an EU representative should the supplier details on the CLP hazard label be those of the EU rep. from Jan 1<sup>st</sup> 2021?**

A. From the 1<sup>st</sup> Jan 2021, for chemicals directly sourced from Great Britain (GB), it is required that the **EU supplier** must be named and provide their address and telephone no. on the hazard label (as per Art. 17(1)(a) of CLP). Under CLP, a supplier is defined as *any manufacturer, importer, downstream user or distributor placing on the market a substance, on its own or in a mixture, or a mixture. There is no provision under CLP to use an only representative since they are not an actor defined under CLP.* The importer of the chemical from GB will be the supplier who is required to have their details on the hazard label.

Therefore, where an only representative is appointed to fulfil registration obligations under the REACH Regulation there is no provision to allow them to act as the importer of the chemical under CLP. The Irish company with responsibility for importing the chemical must place their supplier details on the hazard label.

**Q. Does the Regulation concerning export and import of hazardous chemicals (PIC) apply to imports /exports of pure substances or formulated products, for example, formulated disinfectants containing active substances covered by PIC?**

**A.** The PIC Regulation (EC No. 649/2012) applies to substances as pure substances and to substances in mixtures. For mixtures, obligations under the Regulation are triggered when the concentration of a substance listed in Annex I is present in the mixture at a concentration that triggers labelling obligations under the CLP Regulation.

Chemicals subject to PIC may be pesticides, biocides or industrial chemicals. Disinfectants are biocidal in nature, therefore, fall under the remit of the Dept. of Agriculture, Food and the Marine. For further information on biocidal products please contact: <https://www.pcs.agriculture.gov.ie/contact/>.

Please see the Authority's website for further information on chemicals subject to export/import requirements:

[https://www.hsa.ie/eng/your\\_industry/chemicals/legislation\\_enforcement/export\\_import\\_or\\_pic\\_regulation/chemicals\\_subject\\_to\\_export\\_import\\_notification/](https://www.hsa.ie/eng/your_industry/chemicals/legislation_enforcement/export_import_or_pic_regulation/chemicals_subject_to_export_import_notification/).

**Q. Is a company required to notify placing on the Irish market an imported mixture in an aerosol that contains four chemical substances, one of which is hazardous, even if it is under one ton?**

**A.** An Irish company may have a duty to notify imported substances to the Classification and Labelling (C&L) Inventory at the European Chemicals Agency (ECHA) regardless of the quantity.

The following substances must be notified to the Inventory at ECHA:

- imported substances subject to registration under the REACH Regulation
- imported substances classified as hazardous under the CLP Regulation, irrespective of the quantity imported
- substances classified as hazardous in imported mixtures which results in the overall classification of the mixture as hazardous according to CLP.

Notification to the Inventory must be carried out **within one month** from the substance/mixture being placed on the EU market.

Further information can be found at: <https://echa.europa.eu/regulations/clp/cl-inventory>.

**Q. Are both UK Company and EU Company details (name, address) permitted on the label together?**

**A. No,** EU and non-EU supplier details are not both permitted to be placed together on a CLP hazard label.

The EU supplier details must be on the hazard label as part of the hazard label elements which are required under Art. 17(1)(a) of the CLP Regulation, i.e. *the name, address and telephone number of the supplier(s)*. The definition of supplier in the Regulation refers to *any manufacturer, importer, downstream user or distributor placing on the market.....* Further, the definition for each of these

actors in the Regulation states that they must be *established within the Community*, i.e. the EU. This means that only EU supplier details may be provided on a hazard label for hazardous chemicals placed on the EU market from 1<sup>st</sup> Jan 2021 onwards. Supplier details of a company from Great Britain (GB) may not be placed on the hazard label of a substance or mixture placed on the EU market from that date onwards.

However, there may be a possibility to add the GB supplier details **as supplemental information** on the hazard label. ECHA has a [Q&A](#) website which states that *CLP Article 25 introduces the concept of "supplemental information", which is intended to incorporate additional labelling information 'over and above' that listed in CLP Article 17 (1) (a) to (g). Any non-EU hazard information included along with the CLP label elements may be considered as supplemental information and placed alongside the CLP labelling elements so long as it does not contradict or cast doubt on the validity of the information required by CLP Article 17 (1) (a) to (g), nor makes it more difficult to identify such information. This can only be determined on a 'case-by-case' basis depending on the information being proposed by the importer.*

**Q. I source chemicals from a UK based company which are distributed via a company in Northern Ireland. What happens next year? Do I have to ensure compliance, e.g. register and re-label etc.?**

**A.** As your company will be sourcing your chemicals from a supplier in Northern Ireland (NI), the chemicals you receive should be compliant with the relevant chemicals legislation, i.e. REACH and CLP Regulations. The NI supplier will be required to ensure that the classification, labelling and packaging, as relevant, is correct and that any notification required under CLP is completed by them. The NI supplier will also be responsible for ensuring that a REACH compliant SDS is provided and that any substances requiring registration under REACH are registered accordingly in the EU.