

## The Implications of the UK Leaving the European Union from the Perspective of the Cosmetics Industry

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**Dr Chris Flower**  
Director General CTPA

# CTPA

Representing those who make, supply and sell cosmetic and personal care products, CTPA represents over 175 member companies, of diverse sizes, from micro and SMEs through to multinationals, spanning manufacturers, distributors, contract laboratories and own brand retailers; and collectively represents between 80-85% of a UK market that was valued at £9 billion in 2015 (at the retail sale price).



- To be the **leading** trade association
- Providing **value for money** to members
- Delivering pragmatic **solutions**



## Early warning system



[www.ctpa.org.uk](http://www.ctpa.org.uk)



## Interpretation of regulation

- Guidance
- Workshops



## Help and advice

- One-to-one
- Confidential



## Represent our members

- Single voice

And also...

## Explain cosmetic science

- media
- consumers

Through our communication strategy

- reactive rebuttals
- proactive information

[www.thefactsabout.co.uk](http://www.thefactsabout.co.uk)



# Getting the Best from Brexit

- Members involvement in negotiations
- Government interactions
- Public information
- Advance information for Members



**BREXIT - EU Referendum**

[Don't miss this issue](#)

[BREXIT - EU Referendum archive >](#)

[Brexit - January 16th/17th - 27/1/2017](#)

Latest update - Introduction of the European Union (Withdrawal) Bill

[CEI, BCI and CTPA Survey on the Impact of Brexit on the Chemical Sector - 29/1/2017](#)

Brexit CEI/EU survey

[CTPA Webinar: 31 January - The Implications of the UK Leaving the European Union from the Perspective of the Cosmetics Industry - 16/1/2017](#)

CTPA is organising a webinar on Tuesday 31 January at 13:30 GMT primarily to provide information to non-members on the process and implications of the UK leaving the European Union from the perspective of the cosmetics industry.

[New CTPA Ad Hoc Brexit Strategy Working Group - 20/12/2016](#)

The new Ad Hoc Brexit Strategy Working Group has been set-up bringing different expertise from across the membership, including legal, economic affairs and communication.



**UK Referendum on EU Membership**

**Brexit Factsheet**

*16 August 2016*

**CTPA tackles 'Brexit' for the cosmetics industry**

The result of the UK Referendum on European Union membership has led to a great deal of uncertainty and much speculation on both the process for withdrawal from the EU itself and on the UK's subsequent relationship with the EU and third countries. Yet business requires certainty and stability to thrive. The intent of CTPA is to cut through the noise and confusion and provide its members with clear information based on facts and understanding. CTPA intends to be the primary source of factual information for the UK Cosmetics Industry throughout the lead-up to Brexit. CTPA will offer timely advice and guidance based on its expertise, contacts and experience in managing complex issues to help companies make well-informed and timely business decisions with as much certainty as is possible. This should avoid premature decision-making based on speculation, misleading or incomplete information.

**Get the facts**

Brexit Seminar, 5 October 2016, London

**CTPA Tackles Brexit**

**Implications for the Cosmetics Industry 4 October 2016**

The Regulatory Impact of the Cosmetics Industry of the UK Leaving the EU

*16 October 2016*

**CTPA Position**

**UK Referendum on EU Membership**

**Brexit Factsheet**

*16 January 2017*

**CTPA - Getting the Best from Brexit: Impact, Solutions and Opportunities for the Cosmetics Sector**

On 24 January, the Supreme Court released its conclusions pursuant to the appeal made to the appeal made to the High Court of Justice regarding the prerogative powers of the Secretary of State to give notice under Article 50 of the Treaty of the European Union (TEU).

The Supreme Court has dismissed the appeal made to the Secretary of State and reiterates that the UK government does not have power under its current prerogative to give notice pursuant to Article 50 TEU. The Court has also ruled that the Government does not have an obligation to consult the devolved governments to trigger Article 50 of the TEU.

A further announcement from the Government with regard to the Supreme Court's verdict is expected. Meanwhile CTPA continues to work with the Government to ensure that, post-Brexit, our industry can continue to prosper.

We have been working proactively with our members to assess the main implications and we have developed an updated CTPA member paper - [Click the link below](#)

**UK Referendum on EU Membership**

**Brexit Factsheet**

*16 October 2016*

**CTPA tackles 'Brexit': Looking at the impact, solutions and opportunities for the cosmetics sector**

Early October, Theresa May announced that she will trigger Article 50 of the Treaty of European Union, which will begin the Brexit negotiations, before the end of March 2017.

Once a formal notification of Article 50 is made by the UK, a withdrawal agreement taking into account the framework of the future relationship between EU and UK will have to be agreed within a 2-year timeframe. It is important to stress that the UK would still be a Member State of the EU during the withdrawal negotiations and would continue with its rights as usual until the withdrawal agreement entered into force for 30 days (or 12 months after notification).

The result of the UK Referendum on European Union membership has led to a great deal of uncertainty and much speculation on both the process for withdrawal from the EU itself and on the UK's subsequent relationship with the EU and third countries. Instead of the negotiations, CTPA has developed a guidance paper providing an assessment of the impact of the Brexit on the cosmetics industry and what will be important to achieve. This document will be updated on a regular basis and companies are urged to familiarise their views. CTPA is being very proactive with regard to Brexit and work is being done at both UK and EU level with sister associations to ensure consistent messaging of the key priorities for the cosmetics industry.

**CTPA working with sister associations at both UK and EU level to ensure consistent messaging of the key priorities for the cosmetics industry.**

**UK Cosmetic, Toiletory and Perfumery Association**

**Getting the Best from Brexit**

*16 October 2017*

**3 Cosmetics Industry Key Aims**

1. Ensure the European Union (EU) has an appropriate role in the UK's regulatory framework
2. Ensure the UK remains a Member State of the EU during the withdrawal negotiations and until the withdrawal agreement entered into force for 30 days (or 12 months after notification)
3. Ensure the UK remains a Member State of the EU during the withdrawal negotiations and until the withdrawal agreement entered into force for 30 days (or 12 months after notification)





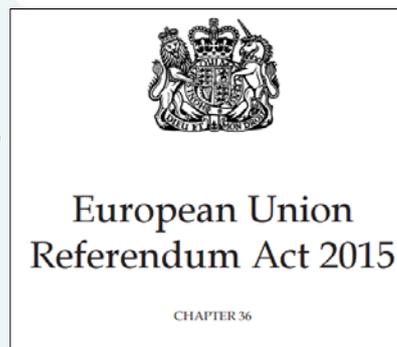
## Olivia Santoni

Head of Regulatory and International Services



## UK Referendum

- Announced by Prime Minister on 23 January 2013.
- [European Union Referendum Act 2015 \(17.12.15\)](#)  
*“Act to make provision for the holding of a referendum in the United Kingdom and Gibraltar on whether the United Kingdom should remain a member of the European Union.”*
- Referendum on 23 June 2016



Number of local areas declared: 382/382

Remain: 16,141,241 (48.1%)

Leave: 17,410,742 (51.9%)

Total Electorate: 46,500,001

Turnout: 72.2%

Rejected Ballots: 25,359



# Article 50 of TEU



## EU Institutions involved in the process of Article 50

**European Council**  
 Heads of state or government of EU Member States.  
 Strategic body that decides the EU's political direction.

**European Commission**  
 The EU's executive body, responsible for proposing and implementing EU laws, monitoring the treaties and the day-to-day running of the EU.

**Council of the European Union**  
 Government ministers who share budgetary and legislative power with European Parliament.

**European Parliament**  
 The only directly-elected EU body. Represents the EU's 500 million inhabitants.  
 Plays a key role in electing the President of the European Commission.  
 Shares power over EU budget and legislation with Council of the European Union.

**751  
MEPs**

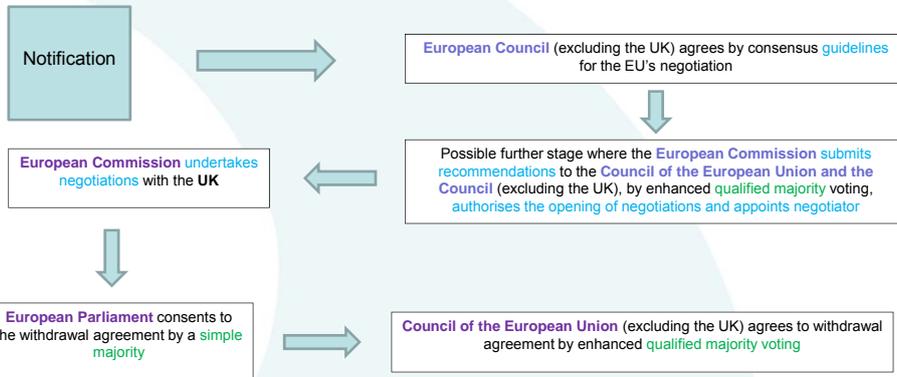
Seats per country from 2014

BELGIUM	21	FRANCE	12	NETHERLANDS	13	GERMANY	13	IRELAND	6	UNITED KINGDOM	13
CYPRUS	6	ITALY	13	GREECE	13	SPAIN	13	PORTUGAL	13	FINLAND	6
CZECH REPUBLIC	13	POLAND	13	HUNGARY	13	ROMANIA	13	ESTONIA	6	UNITED STATES	13
DEVELOPING COUNTRIES	13	EUROPEAN PARLIAMENT	13	EUROPEAN COMMISSION	13	EUROPEAN COUNCIL	13	EUROPEAN COURT OF JUSTICE	13	EUROPEAN OMBUDSMAN	13

UK Member of the European Council or of the Council does not participate in the discussions of the two institutions or in decisions concerning the withdrawal, no similar provision exists for UK MEPs.



## Article 50



"The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period."

## Article 50 – Observations & Questions (1)

### ☞ Irrevocability of Article 50

- Divergences in legal interpretations
- Lord Kerr of Kinlochard's statement (<http://www.bbc.co.uk/news/uk-scotland-scotland-politics-37852628>)

### ☞ What about the status of the UK during the negotiations?

- The UK would still be a Member State during the withdrawal negotiations and would continue with business as usual until the withdrawal agreement entered into force or two years (or more) after notification.
- Existing EU law would continue to apply in the UK.

## Article 50 – Observations & Questions (2)

### 🔗 What would the withdrawal agreement cover?

*“taking account of the framework for its future relationship with the Union”[Article 50]*

Any sort of detailed relationship would have to be put in a separate agreement using the detailed processes set out in the EU Treaties involving **Unanimity in the Council rather than Qualified Majority Voting**, and requiring EU Parliament consent (as well as national ratification?). Article 50 does not specify whether these negotiations should be simultaneous or consecutive. This would be a matter for negotiation.



## UK Political Landscape



## New UK Political Landscape

We are facing a new **UK political landscape**:

- New Ministers
- New political advisers
- ... and two new Government departments



Department  
for Exiting the  
European Union



Department for  
International Trade



## R (Miller and Others) vs Secretary of State for Exiting the European Union

- **High Court of Justice** - Case No. CO/3809/2016 and CO/3281/2016 (03.11.16) regarding the prerogative powers of the Secretary of State to give notice under Article 50 of the Treaty of the European Union (TEU)
  - Secretary of State does not have power under its Crown's prerogative to give notice pursuant to Article 50 TEU
- The **Supreme Court** released its conclusions pursuant to the appeal on 24.01.17
  - Dismissed the appeal made by the Secretary of State
  - Reiterates that the UK Government does not have power under its Crown's prerogative to give notice pursuant to Article 50 of the TEU
  - The Court has also ruled that the Government does not have an obligation to consult the devolved governments to trigger Article 50 of the TEU



## European Union (Notification of Withdrawal) Bill

- ☞ The **European Union (Notification of Withdrawal) Bill** was introduced to the House of Commons on Thursday 26 January 2017.

A  
**B I L L**  
TO

Confer power on the Prime Minister to notify, under Article 50(2) of the Treaty on European Union, the United Kingdom's intention to withdraw from the EU.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: –

**1 Power to notify withdrawal from the EU**

(1) The Prime Minister may notify, under Article 50(2) of the Treaty on European Union, the United Kingdom's intention to withdraw from the EU.

(2) This section has effect despite any provision made by or under the European Communities Act 1972 or any other enactment.

**2 Short title**

This Act may be cited as the European Union (Notification of Withdrawal) Act 2017.

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## What happens next?



- ☞ **European Union (Notification of Withdrawal) Bill**
  - Second Reading on Tuesday 31 January 2017 with conclusion of Second Reading on Wednesday 1 February 2017
  - The Bill is due to be considered in Committee on Monday 6 and Tuesday 7 February 2017, concluding in Committee on Wednesday 8 February 2017
- ☞ **The Great Repeal Bill**
  - Aims at overturning the 1972 European Communities Act and, in effect, take the UK out of EU jurisdiction
  - The UK will then be able to introduce new rules domestically
  - Ministers suggested that in the first instance all EU rules would be transposed into national law

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## The Many Challenges of Brexit



### UK Trade in Global Markets

UK Exports Worldwide £ 3132.9m	UK Imports Worldwide £ 3270.6m
£ 2030.2m to EU <b>64.8%</b>	£ 2157.6m from EU <b>66.0%</b>



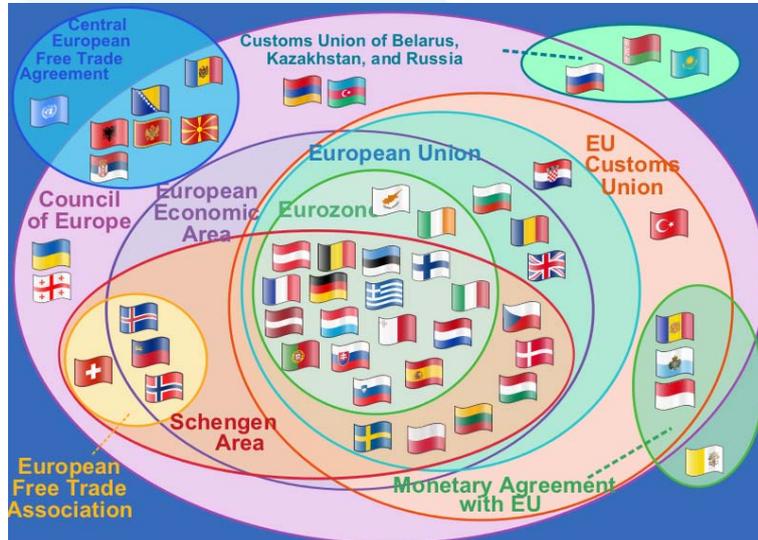
Irish Republic 529.0	France 712.6
Germany 419.6	Germany 483.7
Belgium 267.7	Italy 203.0
France 167.1	Poland 185.7
Netherlands 161.3	Netherlands 127.2
Spain 91.8	Belgium 126.3
Poland 88.1	Spain 125.0
Italy 64.2	Irish Republic 105.8



The UK is the 2<sup>nd</sup> Largest market in the EU for cosmetics



## The many challenges of Brexit



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## European Union Customs Union

- ❖ Membership includes EU members and specific agreements with Turkey, Andorra, Monaco and San Marino.
  - No customs duties at internal borders between the EU Member States;
  - Common customs duties on imports from outside the EU;
  - Common rules of origin for products from outside the EU;
  - A common definition of customs value.

- ❖ The EU has bound tariffs at 0% in WTO commitments for the majority of cosmetics (e.g. perfume, shampoo, make up ... etc.) but excludes:

- Pre-shave, shaving or after-shave preparations (6.5%)
- Personal deodorants and antiperspirants (6.5%)
- Perfumed bath salts and other bath preparations (6.5%)
- **BUT** indirect impact on all categories owing to tariff duties for raw materials (6-8%) and other commodities such as packaging materials, gifts, etc.



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## EEA and EFTA Membership

- ☞ The European Economic Area (EEA) unites into an Internal Market governed by the rules aim to enable goods, services, capital, and persons to move freely :
  - EU Member States and
  - 3 EEA EFTA States (Iceland, Liechtenstein, and Norway).
- ☞ EEA Agreement - Article 127
- ☞ In order to be applicable in the EEA, EU acts have to be incorporated into the EEA Agreement, more concretely into one of its Annexes or Protocols.

► **REGULATION (EC) No 1223/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
of 30 November 2009  
on cosmetic products  
(recast)  
(Text with EEA relevance)  
OJ L 342, 22.12.2009, p. 59

- ☞ The EEA Agreement does not extend the EU Customs Union to the EEA EFTA States.

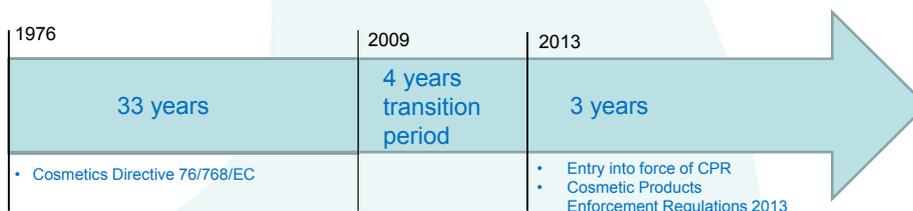


## EU Cosmetics Regulation



## UK status

- The UK has been following the EU cosmetics legislation for over 40 years. There is a high degree of co-operation between the industry and the regulatory authorities both in the UK and at European level to ensure that consumers are properly protected through legislative controls



## Scope

*"This Regulation comprehensively harmonises the rules in the Community in order to achieve an internal market for cosmetic products while ensuring a high level of protection of human health." [Preamble 4]*

### Reference to:

- SCCS
- EU Commission
- Member States
- EC Working Group on Cosmetic Products Standing Committee on Cosmetic Products (COSCOM)
- Platform of European Market Surveillance Authorities for Cosmetics (PEMSAC)



## Key challenges

- ❖ Market Surveillance and Administrative Cooperation
- ❖ Responsible Person (RP)
- ❖ Role and Responsibilities (e.g. cross border distributors )
- ❖ Product Information Files (PIF)
- ❖ Safety Assessor Qualification
- ❖ Notification and Labelling Changes



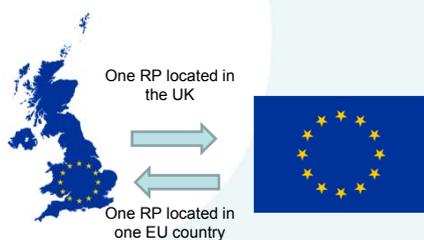
## Market Surveillance and Administrative Cooperation

- ❖ **EU countries are responsible for the surveillance of their own markets for cosmetics.** The aim of this network is to facilitate cooperation by:
  - coordinating activities;
  - exchanging information;
  - developing and implementing joint projects;
  - exchanging expertise and best practices in cosmetics market surveillance.
- ❖ **What will be the nature of the relationship post Brexit?**



## Responsible Person (RP) location

- Article 4 (1) “Only cosmetic products for which a legal or natural person is designated within the Community as ‘responsible person’ shall be placed on the market.”



### Potential issues:

- Setting up an RP within the EU/EEA & in the UK?



## Changes in Roles and Responsibilities of the Supply Chain Actors

Article 2 (e) ‘*distributor*’ means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a cosmetic product available on the Community market;

Article 2 (i) ‘*importer*’ means any natural or legal person established within the Community, who places a cosmetic product from a third country on the Community market;

Article 4 (5) “For an imported cosmetic product, *each importer shall be the responsible person* for the specific cosmetic product he places on the market.”

- Roles and responsibilities of cross border distributors / shops / retailers ...etc.
  - RP status? + PIF access? + Notification (UK/EU) + Labelling (address) + liability ...??

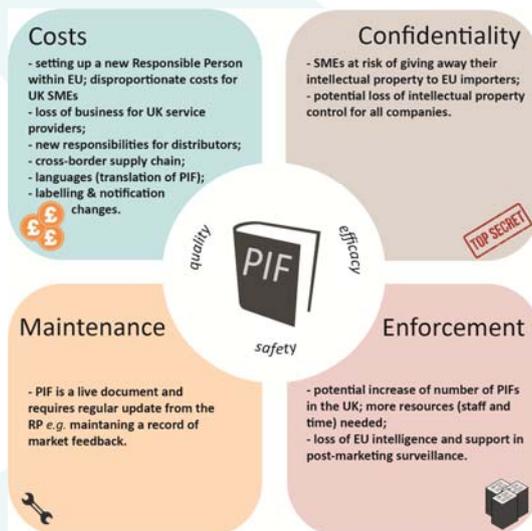


## Duplication of Product Information Files (PIF)

- ❖ Recital 17 “For the purpose of effective market surveillance, a product information file should be made readily accessible, at **one single address within the Community**, to the competent authority of the Member State where the file is located”
  
- ❖ **Product Information Files**
  - Product description
  - Cosmetic Product Safety Report
  - Method of manufacture statement of GMP
  - Proof of effect
  
- ❖ Once the UK leave the EU/EEA companies selling cosmetics **in both UK and EU markets** will potentially have to hold a PIF in the UK as well as in another European country in different languages.



## Duplication of Product Information Files (PIF)



## Safety Assessor Qualification

### Article 10 (2)

*The cosmetic product safety assessment, as set out in Part B of Annex I shall be carried out by a person in possession of a diploma or other evidence of formal qualifications awarded on completion of a university course of theoretical and practical study in pharmacy, toxicology, medicine or a similar discipline, or a course recognised as equivalent by a Member State.*



## Notification and Labelling Changes

### Cosmetic Product Notification Portal

- CPNP access
- UK notification system?



### Labelling

- Address of the RP
- Country of Origin



#### ***The importance to avoid a cliff edge:***

It would be extremely detrimental for UK companies to be forced to recall existing compliant products should they no longer comply as a result of the EU exit. It would be equally disruptive to EU companies which export products to the UK



## Other Regulations



## REACH (1)

- ❖ Involvement of EU institutions (EU Commission / ECHA / MS)
- ❖ Scope: Registrants have to be established within the [European Community](#) (EU/EEA).
- ❖ Once the UK leaves the EU/EEA, UK manufacturers and importers would not be recognised as being established within the European Community and would each have to appoint an 'Only Representative' (OR).
- ❖ Companies based in the UK currently acting as ORs for non-EU-based companies exporting into the EU would no longer be able to act in that role.
- ❖ Issues that would also need to be addressed include the status of existing REACH registrations and of future registrations.



## REACH (2)

### 🔗 The transposition of REACH into UK law (???)

- Mutual Recognition Agreement (?)
- UK REACH Regulation under which the UK would operate on a stand-alone basis, independent of ECHA (?) - appropriate mechanisms to replicate some or all of the functions currently undertaken by ECHA, would need to be established, creating 'UK REACH'
  - Duplication of time and costs involved for the many companies operating in the chemicals and cosmetics supply chain with business in the UK and in other EU Member States
  - Duplication of data



## Other Regulations

- |                                       |                                 |
|---------------------------------------|---------------------------------|
| 🔗 Biocide                             | 🔗 General Product Safety        |
| 🔗 Medicine                            | 🔗 Alcohol denaturants           |
| 🔗 Medical device                      | 🔗 Packaging and Packaging waste |
| 🔗 Aerosols                            | 🔗 Electronic regulations        |
| 🔗 Consumer rights / advertising       | 🔗 Waste regulations             |
| 🔗 EU Ecolabel                         | 🔗 Toys                          |
| 🔗 Food/colours/supplements rules      | 🔗 Nagoya Protocol               |
| 🔗 Detergent                           | 🔗 Timber ...                    |
| 🔗 Trademark / Patent protection rules | 🔗 IP rights                     |
| 🔗 Animal welfare rules                |                                 |
| 🔗 Animal by product                   |                                 |

**etc.**



**Thank you for your attention**

**If you have any questions please email:  
[info@ctpa.org.uk](mailto:info@ctpa.org.uk) (quoting CTPA Brexit Webinar)  
by Friday 3 February**

**The presentation will be sent via e-mail on  
Thursday 9 February  
with a round-up of questions received**

