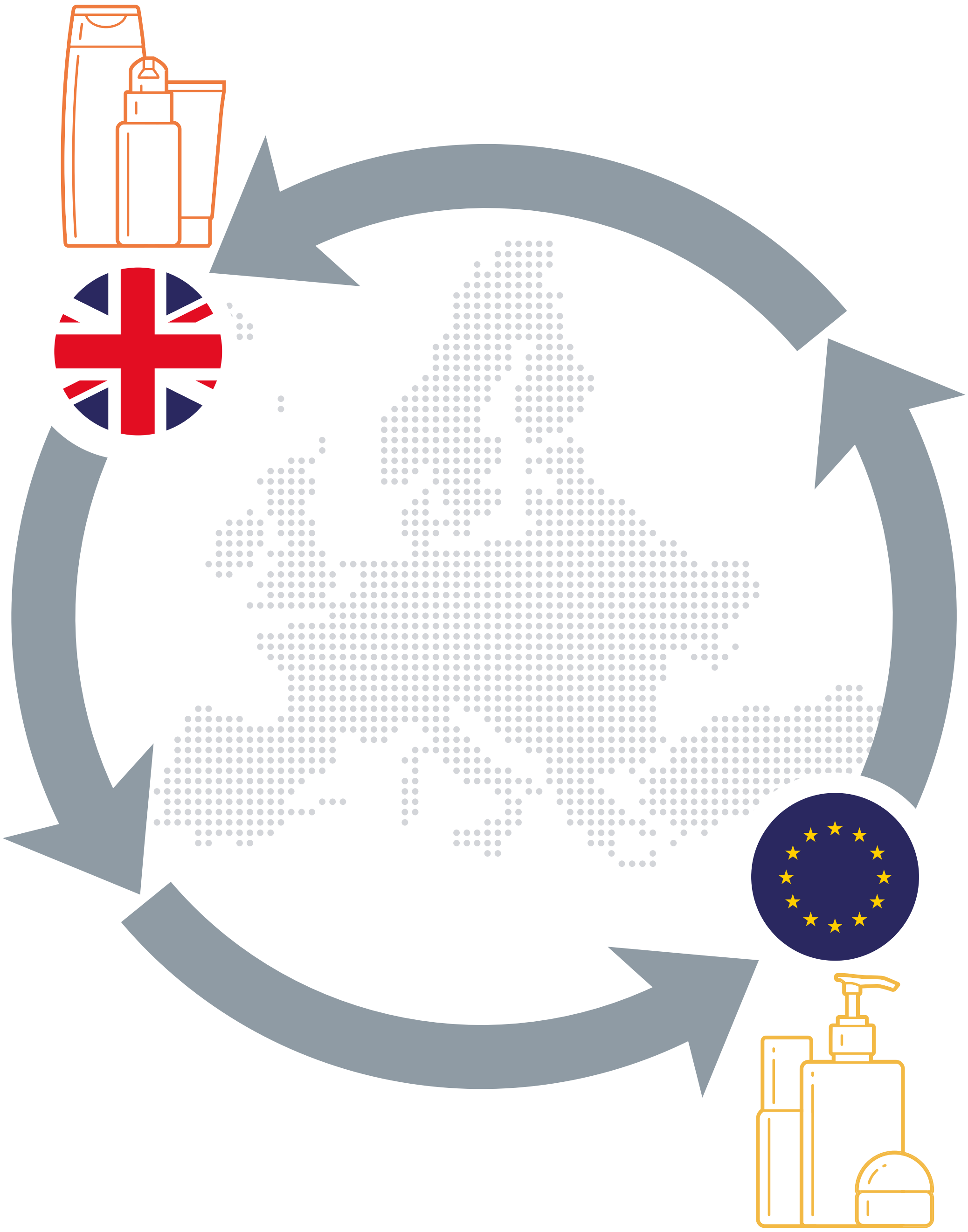
Cosmetics Europe
the personal care association



Cosmetics Europe:

Favouring Trade Flows and Regulatory Continuity After the UK Exits the EU

Executive Summary

Europe is the global flagship producer of cosmetics products. The industry makes significant contribution to the European economy across its value chain and the very science-driven and innovative industry supports millions of jobs. SMEs are key drivers of industry innovation and economic growth. Maintaining the vigorous level of trade between the EU and the UK is paramount for the continued economic growth of both parties. To ensure the minimum level of impact on trade flows for cosmetics and personal care products between the EU and the UK after the UK exits the EU it will be essential for both parties to agree to:

- **Guaranteeing sufficient transitional arrangements (of at least four years) to enable industry to adapt**
- **Avoiding tariff barriers and customs disruptions**
- **Maintaining regulatory cooperation and continuity**

It remains equally essential to be able to protect the intellectual property rights stemming from industry innovations, as well as continued access to highly-skilled talents in both the EU and the UK.

About the European Cosmetics and Personal Care industry

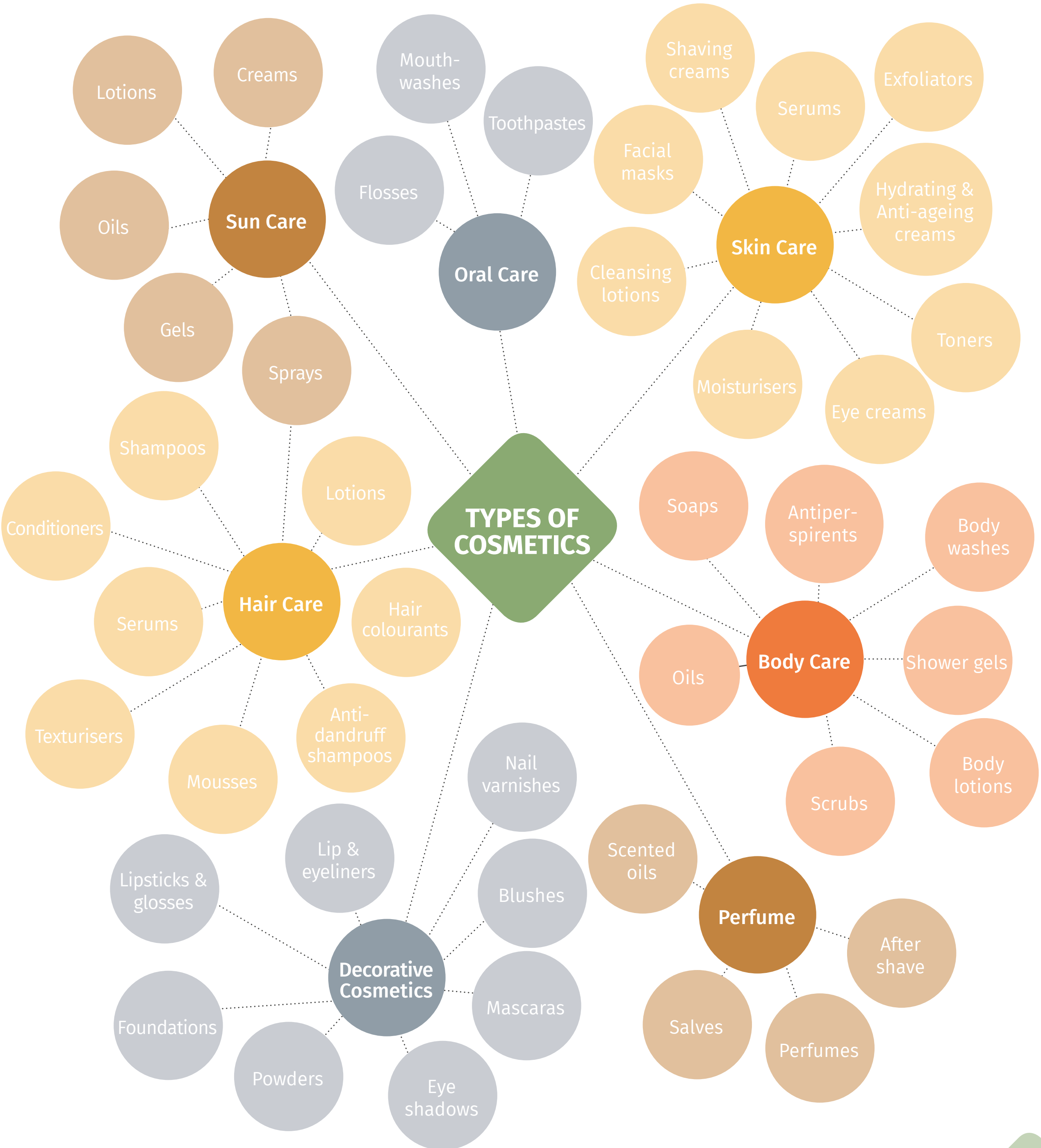
Cosmetics Europe is the trade association representing Europe's cosmetic, toiletry and perfumery industries. Today, the European sector is worth €77 billion. Cosmetics Europe membership includes international companies and national associations of the European Member States and beyond. Cosmetics Europe represents directly and indirectly the interests of approximately 4600 companies ranging from international cosmetics manufacturers to small family-run businesses operating in niche markets. Cosmetics Europe is based in Brussels, Belgium and is registered in the EU Transparency Register (No: 83575061669-96).

The Cosmetics and Personal Care sector is highly-regulated. Cosmetics products sold within the EU are regulated by the Cosmetics Products Regulation (EC) 1223/2009 ("CPR"). The regulation entered into force in 2013 and was preceded by the Cosmetics Directive (since 1976). The Cosmetics Regulation is considered a gold standard across the world and products complying with these requirements are highly considered outside the EU. The regulatory framework also extends to upstream chemical legislations such as REACH and CLP as well as to horizontal regulations on general product safety, market surveillance, packaging and packaging waste as well as intellectual property protection.

The cosmetics industry is a science-driven, fast-paced and highly innovative sector with large investments in R&D. More than 27,700 scientists are employed by the industry in Europe. The innovative drive of the sector is shown by a high patent activity, with approximately 6,000 patents filed in 2011 by the European cosmetics industry.

For more information please visit:
www.cosmeticseurope.eu

COSMETICS ARE AN IMPORTANT PART OF PEOPLE'S EVERYDAY LIFE



TRADE FLOWS FROM THE EU27 TO THE UK WERE ESTIMATED TO APPROXIMATELY €2.9 BILLION IN 2016

TRADE FLOWS FROM THE UK TO THE EU27 WERE ESTIMATED TO APPROXIMATELY €2.7 BILLION IN 2016

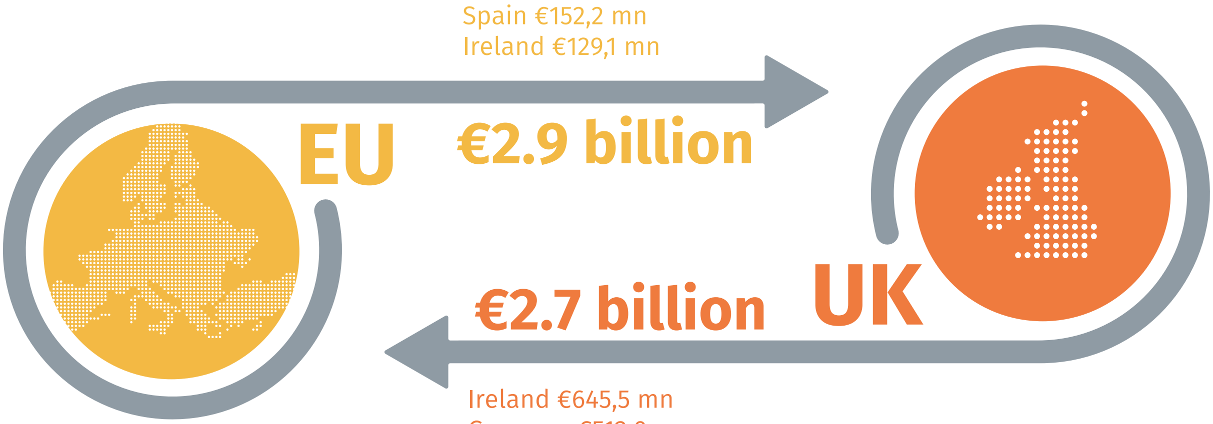
THE COSMETICS INDUSTRY IN THE EU27 IN 2016 EMPLOYED APPROXIMATELY 1.6 MILLION PEOPLE (INDIRECT, DIRECT MANUFACTURING AND DIRECT DISTRIBUTION)

Maintaining Current Trade Flows

The continuation of vibrant trade between the EU and the UK, unimpeded by tariff and non-tariff barriers, will be essential for the continued economic prosperity of both parties. Consumers buying personal care and cosmetic products would benefit from a continuation of the duty-free market access of these goods. This would help to avoid unnecessary price increases of these daily consumer goods.

TRADE FLOWS COSMETICS 2016

France €869,5 mn
Germany €590,2 mn
Italy €247,7 mn
Poland 226,6 mn
Netherlands €155,2 mn
Belgium €154,1 mn
Spain €152,2 mn
Ireland €129,1 mn



Ireland €645,5 mn
Germany €512,0 mn
Belgium €326,7 mn
France €203,9 mn
Netherlands €196,8 mn
Spain €112,0 mn
Poland €107,5 mn
Italy €78,3 m

The supply chain process for cosmetics is complex and involves for many companies cross border exchanges between the UK and the EU. Upon Brexit, the UK will need to agree its own set of schedules at the WTO. A sensible approach would be to replicate the existing trade regime as far as possible in the new schedules to involve minimal disruption. The EU has today bound its tariffs at zero per cent in WTO commitments for several cosmetics products categories. Tariffs (6.5%) are still applicable to three categories of final products: shaving products, deodorants/antiperspirants and bath salts/bath preparations. In addition to direct tariffs, the indirect impact on all categories of products should be equally considered given the likely tariff increases for raw materials and other commodities (for example packaging materials).

Considering the current trade flows, it is important to ensure that tariffs for cosmetics products and raw materials for both regions will be limited taking into account the supply chain complexity. Any tariff increases are likely to decrease export volumes between the parties, with a potential impact on European jobs and growth. Similarly, a future agreement should ensure that flow of goods between the EU and the UK is not unnecessarily delayed by customs administration. Strong commitment to regulatory co-operation should also be a part of a future trade agreement to ensure the interaction between the EU and UK regulators at all levels of the regulatory processes and to avoid cost burden of dual regulation (including labelling). Such agreement should be put in place before the UK leaves the EU in order to avoid a cliff edge scenario.

Ensuring Regulatory Continuity

Continued mutually beneficial trade between the EU and the UK will require equivalent standards and mutual recognition of regulatory frameworks. We urge the European Union to seek an agreement with the UK which ensures that no regulatory barriers hamper open trade.

The exit of the UK from the EU will have an important impact on essential elements of the cosmetics regulatory framework. If not managed properly through appropriate transition periods, the withdrawal risks having a significant impact on companies established both in the UK and in the EU with commercial activities in both territories. To avoid unwarranted regulatory barriers that would have a considerable impact on businesses, including future financial and additional bureaucratic implications, it is essential that consistent regulation and mutual recognition continue. Any future potential dual regulations across the EU and the UK would lead to legal uncertainty and cost burden for businesses, with an impact on competitiveness.

The CPR is based on in-market control and administrative co-operation between Member States. This ensures a high level of consumer protection via collaborative market surveillance. Only cosmetics for which a legal or natural person is designated within the Community market (EU/EEA members) as “Responsible Person” (RP) shall be placed on the market. For each cosmetic, upon request, the RP shall make available a Product Information File (PIF) to the Competent Authority of the Member State where the RP is located (as indicated on the packaging). As such, a PIF is not required for each Member State where the product is marketed and there is only one PIF needed within the Community market. This file is only available to this particular Member State for inspection. The Competent Authorities of the Member States in question shall co-operate with each other and with the Commission to ensure the proper application and due enforcement of the CPR and shall transmit to each other all information necessary with a view to applying the regulation uniformly.

As at April 2017, 6120 Responsible Persons were established in the United Kingdom. That is 12% of the total number of RPs registered in the EU and places the United Kingdom in third place, after Italy (16%) and Germany (13%)

Upon its withdrawal, the UK will no longer be part of the Community market and as a result, UK companies selling in the EU and having their RP only in the UK, will not be compliant with the CPR. These companies will need to set up arrangements within the EU/EEA to ensure compliance with their obligations under the CPR to have a RP and PIF within the EU. Similarly, 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, possibly in different languages.

A duplication of PIF requirements would involve significant costs and efforts for companies located both in the UK and within the EU27. Those costs are generated by the need to set up a new structure around the location of the Responsible Person and the PIF, in terms of for example new logistics (including but not limited to re-locating and re-negotiation of contracts) and translation of relevant information. Similarly, in the absence of recognition of one single RP, the setting up of new manufacturing lines to re-label products would generate significant costs and efforts.

It is therefore essential that the current regulatory framework is maintained to reduce unnecessary burden for both UK and EU businesses.

- A continued full-fledged administrative co-operation based on the current principles of the CPR, including one RP and one PIF, between UK and EU competent authorities, through pre-defined terms, would avoid increased burden on industry.
- At the very least, continued regulatory cooperation between the EU and the UK, on all aspects of the CPR (such as ingredient evaluation and safety dossier requirements), should be maintained to enable companies to hold one common PIF for both territories, whilst the nomination of two RPs may be required to ensure relevant contact points in both jurisdictions (but without the obligation to have a double labelling requirement on pack). This implies that any enacted UK cosmetics and personal care products legislation closely adheres to the terms of the current CPR.

Providing for Coherent Transition Periods

In view of the complexity of the negotiations that will be needed to define the new relationship in detail, we call for pragmatic transitional arrangements that will allow for all European businesses to plan and adapt to the future.

At the date of a UK exit, companies selling products both on the UK and EU27 markets run the risk of being non-compliant from day one after the exit, including products already placed on the market. To maintain business continuity and financial stability for companies and their retail partners, the withdrawal arrangements should ensure that any product lawfully placed on the EU27 and UK markets on the basis of Union law before the withdrawal date can remain on these markets under the conditions set out in the relevant Union law applicable before the withdrawal. To that effect, Cosmetics Europe welcomes the position put forward by the EU in its position paper dated 12 July 2017 on *Goods placed on the Market under Union Law before the Withdrawal date*. Whilst the reference to the concept of placing on the market is relevant for this purpose, it should be noted that sometimes cosmetics products may have completed the manufacturing stage and hence be fully compliant with EU regulatory requirements, whilst not yet technically "placed on the market". This is for example the case with imported products that have been released for free circulation in Europe prior to their placing on the market. It will therefore be important not to exclude such situations. Further, any final agreement on goods already placed on the market should consider the implications for the localisation of the Responsible Person and the PIF specifically for these goods. Cosmetics Europe is therefore supportive of the position of the UK (see UK position paper dated 21 August 2017 para 19) that provides that the RP should be able to continue carrying out that responsibility for products placed on the market prior to exit whether they are based in the EU or in the UK, without the requirement to relocate."

In addition, it is crucial that the withdrawal agreement provides for sufficient transition phases, with the continuity of full regulatory cooperation, to enable companies and their retail customers to adapt their business lines once there is clear certainty on the new rules to be applied. On initial estimates, the timing necessary to adapt to a new regulatory framework without disruption for the cosmetics industry, is estimated to at least four years.

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