April 16, 2019

(updated)

Questions & Answers

CTACSub Consortium[1] (CTAC Submission Consortium)

REACH Authorization of Certain Uses of Chromium Trioxide

Question 1: **What is the status of these applications for authorizations ("AfA")?**

Response: The REACH Committee of the European Commission approved the CTACSub authorization Decision on February 15, 2019. The Commission was therefore expected to issue the Decision towards the end of March.[2] However, on March 7, the EU General Court issued a ruling (T-837/16) on another authorization which sets strict conditions for the future Commission decision making. Pursuant to the court ruling and a European Parliament Resolution of March 27, 2019 requesting that the Commission withdraw the CTACSub Decision and submit a new draft, the Commission re-discussed the draft authorization Decision at the REACH Committee meeting on April 11/12, along with other draft authorization decisions to evaluate the impact from the General Court ruling. It is our understanding that no decisions were taken. New information is expected at the latest at the next REACH Committee meeting mid-June. In view of the above developments, the below timelines (which are now based on the potential scenario of a new vote at the June REACH Committee meeting) may again slip.. **You may therefore expect updates to Q1 and other Qs at any time.**

Question 2: Will the Commission reject the applications for authorization after the General Court ruling and the European Parliament Resolution?

Response: First, the European Parliament Resolution, which was adopted with only 309 votes in favour and 286 votes against, has no binding force on the Commission. However, the Commission will re-evaluate its work and check whether the draft authorization Decision is still correct and whether it complies with the principles set up by the General Court. Given that the authorization is supported by ECHA's RAC and SEAC committees and most of the EU Member States (24 out of 28 votes in favour at the REACH Committee in February), we expect that the Commission will continue to propose authorization. There could be, however, some changes to the text, to reflect the General Court ruling. We do not expect changes to the review periods.

Question 3: Assuming the Member States will approve and the Commission will adopt the authorization decisions, what is the timing?

Response: If adopted in June, we can expect notification of the authorization Decision by mid-July. Assuming the review periods stay as is, the use of chromium trioxide would be authorized until mid-July 2023[3] for Uses 3 (functional plating with decorative character), 5 (miscellaneous surface treatment) and 6 (passivation of tin-plated steel (ETP)), and until September 21, 2024 for Uses 1 (formulation), 2 (functional plating) and 4 (surface treatment in the aeronautics and aerospace industry).

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1 Members of the CTACSub Consortium are: Atotech Deutschland GmbH; Aviall Services Inc; Prospere Logistic Baltic OÜ (as legal successor to BONDEX TRADING LTD), in its legal capacity as Only Representative of Aktyubinsk Chromium Chemicals Plant, Kazakhstan; CROMITAL S.P.A. in its legal capacity as Only Representative of Soda Sanayii A.S.; Elementis GmbH in its legal capacity as Only Representative of Elementis Chromium Inc.; Enthone GmbH (now MacDermid Enthone); LANXESS Deutschland GmbH in its legal capacity as Only Representative of LANXESS CISA (Pty) Ltd.

2 Link to the authorization Decisions is to be inserted when they are published in the EU Official Journal (i.e. –mid-July 2019). To view the current draft authorization Decision approved by the REACH Committee on February 15, 2019, please refer to CTACSub Consortium Press release of February 21, 2019, available at: http://www.jonesdayreach.com/SitePages/News.aspx

3 This is counted as four years following the adoption of the authorization Decisions (see footnote 2).

Any company that seeks to continue its use beyond the respective review period can either introduce its own application for authorization as soon as possible (ideally 24 months before the end of the respective review period so as to account for sufficient time for European Union decision making) or it should seek assurances from its suppliers that they will introduce review reports to extend authorization.

Question 4: (No-deal Brexit) What will happen with a UK downstream user relying on a REACH authorization granted to an EU-based entity prior to the UK's withdrawal from the EU? What should the downstream user do?

Response: A UK downstream user of a REACH authorization held by an EU-based company can continue to use the relevant substance in accordance with the conditions of the authorization provided that he/she within **60 days** of the UK's withdrawal from the EU:

- Submits to the UK Health and Executive ("HSE") the information that he/she is a an existing authorized downstream user under REACH with reference to the particular substance; and
- Notifies the HSE of: (i) the existing REACH authorization; (ii) the conditions (if any) laid down in the existing authorization; (iii) the identity of the EU-based supplier.

Question 5: (No-deal Brexit) What will happen with a UK downstream user relying on a REACH AfA by an EU-based company where the European Chemicals Agency ("ECHA") has adopted its final opinion but the European Commission has not made a final decision – e.g. potentially the case of the CTACSub AfA? What should downstream users do?

Response: According to HSE's advice, there is currently no legal protection (possibility of continued use) for UK downstream users relying on an ongoing AfA by an EU-based company. Such protection only exists for UK downstream users of UK applicants that had previously filed an EU AfA and have received RAC/SEAC opinions (such UK applicants must notify the UK Secretary of State of State for the Department of Environment, Food &Rural Affairs ("Defra")). Moreover, there is currently no fast-tracking procedure foreseen for AfAs previously introduced at EU level by EU/EEA based applicants and having received RAC/SEAC opinions. These applicants would have to appoint an UK entity and introduce a new application in the UK. To the contrary, previous EU AfAs introduced by UK applicants and having received RAC/SEAC opinions will be fast tracked in the UK.

For all of the above reasons, we therefore recommend to UK downstream users of EU/EEA applicants that they contact HSE to determine the way forward.
Further information on Question 4 and Question 5 is provided in:

- The Draft UK-REACH Statutory Instruments, Title 14A, available at: http://www.legislation.gov.uk/ukdsi/2019/9780111180358/pdfs/ukdsi_9780111180358_en.pdf
- Defra *"UK REACH Guidance if there is no Brexit deal"*, Scenarios 5 and 7, available at: http://www.hse.gov.uk/brexit/uk-reach-additional-guidance.pdf,
- HSE website at: http://www.hse.gov.uk/brexit/reach.htm and http://www.hse.gov.uk/brexit/further-info.htm

The HSE REACH helpdesk can be contacted at: http://www.hse.gov.uk/reach/helpdesk.htm

Question 6: Will the upstream suppliers seek to extend their authorizations and thus introduce review reports at the latest 18 months before the end of the respective review periods?

Response: The authorization holders have not yet decided this. Their decision will depend, among others, on the following factors:

- ✓ The consumption of the substance in the EU;

- ✓ The availability of comprehensive exposure and emissions monitoring data from the downstream users reporting to ECHA by July 2020[4];
- ✓ Organization and financing of a collaboration;
- ✓ The impact of the General Court judgement on the Commission's decision making practice.

Question 7: What impact do the authorization decisions have for downstream users?

Response: Downstream users in the supply chain of the applicants can continue their uses until the end of the respective review periods (see above) if they can demonstrate to the competent authorities of the EU Member States that they belong to the same supply chain as the authorization holders, their uses fit within the use descriptions of the decisions, they are compliant with the operational conditions and risk management measures set out in the applications for authorization and the decisions, and the conditions of the decisions are complied with.

Question 8: **What immediate steps do downstream users have to take now?**

Response: Once the authorization Decisions will have been issued, as a next immediate step, downstream users of chromium trioxide must notify their chromium trioxide uses to the European Chemicals Agency (ECHA) under Article 66 REACH within three months of the publication of the authorization Decisions in the EU Official Journal, thus at the latest on or around **mid-October, 2019.** If you do not comply with this obligation, you might be imposed a fine by your national enforcement authority and/or the national authority may ask you to stop the use of chromium trioxide until you have filed the Article 66 notification with ECHA. Please see chart below on actions and timelines.

Date[5]	**Action**
July 15, 2019	Authorization decision notified to applicants (**date estimated**)
October 15, 2019	Downstream users to scrutinize new specific exposure scenarios for representative processes, operations and individual tasks to be drawn up by suppliers (as annexes to safety data sheets)
October 15, 2019	Downstream users to notify uses to ECHA under Article 66 REACH
January 15, 2020	Downstream users to finish first exposure measurement campaigns
As of July 15, 2019	Downstream users to implement monitoring programs for Chromium (VI) emissions to wastewater and air from LEV
July 15, 2020	Downstream users to notify data from exposure measurements and air and waste water monitoring to ECHA

For further guidance on how to submit your Article 66 notification, please refer to the 'Note for Downstream Users on Article 66 REACH notifications' attached as Annex 1 to this Q&A document.

Question 9: **How will a downstream user know whether the chromium trioxide he uses originates (was supplied directly or indirectly by) from one or more of the 7 CTACSub authorization holders?**

Response: The labels and safety data sheets of chromium trioxide will contain authorization numbers. The authorization numbers are 'use'-specific, so downstream users need to select for their Article 66 ECHA notification the specific authorization number(s) that correspond to their use. Authorization numbers have the format 'REACH/x/x/x'. In case distributors or formulators supply the substance (or chromium trioxide

[4] Estimated date. One year after publication of authorization decision.
[5] All dates are estimated. Final dates depend on date of notification/publication of authorization decisions, as the case may be.

in mixture), the safety data sheets and labels may possibly contain several authorization numbers. It is important that downstream users do not accept any deliveries without authorization numbers (unless they receive their chromium trioxide from a supplier whose application is still pending), as they will critically need those numbers for their Article 66 ECHA notification (see above).

Question 10: What authorization number should the downstream user notify to ECHA in case he uses up chromium trioxide supplied before the date of authorization?

Response: As a matter of practicality, he should use the authorization number mentioned in the next delivery of his usual supplier.

Question 11: Can a downstream user continue to use chromium trioxide that he holds in stock previously received from a supplier who does not hold an authorization (or has no application pending introduced before March 21, 2016)?

Response: NO.

Question 12: **What does a downstream user do in case of an inspection?**

Response: First, please note that the REACH Forum [6] has decided that compliance with REACH authorizations for chromates will be a priority of national enforcement in 2019. Downstream users should therefore expect an inspection at the latest in 2019. Several Member States (including France and the United Kingdom) started inspection campaigns already in 2017, immediately after the Sunset Date had passed.

In case of an inspection, the inspector will ask the downstream user for his Article 66 REACH notification. The Downstream user should also be able to demonstrate and have documented by a self-assessment that his activity falls within the scope of the authorization decisions, and that he applies as a minimum the operational conditions and risk management measures described in the applications and decisions. Moreover, he should demonstrate that he is compliant with national legislation on health & safety at the workplace, including occupational exposure limits, the obligation to make a safety assessment for each workplace and to observe the hierarchy of prevention measures for carcinogens at the workplace.

Question 13: **Is there any practical guidance available that downstream users can utilize to adapt their operating conditions?**

Response: YES. CTACSub has developed and published[7] a series of easily comprehensible illustrative practical Task Sheets ('Good Practice Sheets'; 'GPS') that set out the operational conditions and risk management measures that are recommended when handling chromium trioxide. The GPS also contain advice on personal protective equipment and exposure / emissions monitoring. The GPS do not replace the exposure scenarios in the safety data sheets, but both are consistent. The GPS are just easier to understand for non-experts.

Question 14: Do the authorization Decisions impose specific conditions on 'articles for supply to the general public'?

Response: YES. An authorization holder and its downstream users must ensure that there is no chromium (VI) above the detectable level present in articles for supply to the general public under Use 5. Please note that the CTACSub Consortium will issue recommendations for test standards to use to prove that no chromium (VI) residues are present.

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[6] Article 86 REACH. Consisting of national inspectors. Responsible for coordination of enforcement across the EU. https://echa.europa.eu/-/more-enforcement-on-authorisation-and-registration-coming-up-for-2019

[7] See http://www.jonesdayreach.com/SitePages/Home.aspx

'Articles for supply to the general public' have been defined by the European Commission[8] as 'articles put at the disposal of the general public', regardless of the type of ownership (public or private) or the specific type of transaction by which the objects were put at the disposal of the general public. 'Supply to the general public' excludes articles intended for professional use, since according to ECHA the concept of 'professional use' should be understood "*[…] as a characteristic to distinguish between use: i) at industrial sites and ii) uses outside industrial sites (but not consumers or general public).*"[9]

[8] See document CA/30/2016, 21st Meeting of Competent Authorities for REACH and CLP (CARACAL), available at: https://circabc.europa.eu/ui/#

[9] ECHA Guidance on Information Requirements and Chemical Safety Assessment Chapter R. 12: Use description, available at: https://echa.europa.eu/documents/10162/13632/information_requirements_r12_en.pdf

ANNEX 1

Note for Downstream Users on Article 66 REACH notifications

April 16, 2019
CTACSub Consortium

The European Commission is expected to publish around July 15, 2019 the REACH authorization decisions for the six uses of chromium trioxide (EC 215-607-8; CAS 1333-82-0) applied for in May 2015 by the following seven authorization holders:

- Atotech Deutschland GmbH;
- Aviall Services Inc;
- CROMITAL S.P.A in its legal capacity as Only Representative of Soda Sanayii A.S.;
- Elementis GmbH in its legal capacity as Only Representative of Elementis Chromium Inc.;
- LANXESS Deutschland GmbH in its legal capacity as Only Representative of LANXESS CISA (Pty) Ltd.;
- MacDermidEnthone GmbH; and
- Prospere Logistic Baltic OÜ in its legal capacity as Only Representative of Aktyubinsk Chromium Chemicals Plant, Kazakhstan. [10]

If you are a downstream user ('DU') of chromium trioxide delivered directly or indirectly (e.g. through a formulator or distributor) from any of the seven companies above, you are obliged to notify your chromium trioxide uses to the European Chemicals Agency (ECHA) under Article 66 REACH within three months of the publication of the authorization decisions in the EU Official Journal, thus at the latest on or around October 15, 2019. If you do not comply with this obligation, you might be imposed a fine by your national enforcement authority, and/or the national authority may ask you to stop the use of chromium trioxide until you have filed the Article 66 notification with ECHA.

You must submit your Article 66 notification electronically in an on-line form made available by ECHA on its REACH-IT system. This means that as a **first step** – unless you have previously done this already for other reasons - you must 'open a REACH-IT account'. Please note down your User name and Password when opening the account. Once this first step is completed, you can submit as a **second step** your Article 66 notification though REACH-IT. In order to do so, you will need to prepare and have the following minimum information at hand:

- ✓ The name of your company, the address of the sites where the substance is used, and the relevant contact details.
- ✓ The substance and the name of the authorized use, which are identified by the authorization number. You will find the authorization number on the label and/or Safety Data Sheets (SDS) furnished by your substance supplier. The Article 66 notification template provides a drop-down list of all authorization numbers from which you must choose one.
- ✓ The usual annual volume and the number of workers using the substance (this is voluntary information).
- ✓ If you obtain your chromium trioxide or solution containing chromium trioxide from more than one supplier, you have to file as many notifications as the number of your suppliers. In order to avoid double-counting of tonnage and workers exposed, you have to, in the case of more than one supplier, split the number of workers exposed and the tonnage received so that the figure is accurate.

[10] For further information on the authorization decisions, please see CTACSub Consortium Press release of February 21, 2019, available at: http://www.jonesdayreach.com/SitePages/News.aspx

- ✓ A brief additional description of your use (e.g. the type of products you manufacture or the market segments where they are supplied) and any involvement in substitution activities (again, this is voluntary information).

After you are finished with filing your notification, you should write down the 'submission number' and print the report of your notification. You will need the submission number for any future notification updates.

Very importantly, since the authorizations have been granted with conditions, DUs have to comply with these conditions. This means that all DUs that rely on the above authorizations **have to conduct annual workers exposure and environmental (air emissions and waste water) monitoring, and the results of this monitoring must be submitted to ECHA in the Article 66 notification.** However, the first notification of workers exposure and environmental information is not due until 12 months after the publication of the authorization decisions, so on and around **July 15, 2020.** Please note that the CTACSub Consortium will issue a reporting format for exposure monitoring at the beginning of **July 2019**. CTACSub recommends to use this monitoring format for compliance with the authorization decisions' monitoring requirements. Therefore, CTACSub recommends not to submit monitoring data under the Article 66 notification in the initial (October 15, 2019) notification but only later, when the new monitoring format will be available and the DUs have conducted their first measurement campaigns (which must be done by January 15, 2020)[11]. This can be easily done by an **'update' of the earlier Article 66 notification**.

Be aware that the monitoring data will have to be uploaded in an Annex of the Article 66 notification.

Confidentiality Issues

Please note that ECHA publishes certain information from the Article 66 notifications, i.e. the substance name, the Member State where the use takes place, whether the notification's status is active or inactive and the tonnage band in an aggregated form, if quantity data was provided. On the other hand, certain information notified under Article 66 is provided **automatically** to the authorization holders, namely the monitoring data referred to above. You can therefore not prevent the monitoring data being submitted to the authorization holders. All you can do is to delete your company identification from the monitoring data, so that your company identity is not revealed to the authorization holders.

DUs have the right to claim confidentiality on their: company name, location of the site of use, name of the notified use, brief additional description of use, and information on substitution activities. If you do not claim confidentiality, ECHA will publish these details too. If you claim confidentiality, you will have to provide justifications for the confidentiality claim to ECHA.

As already noted above, Article 66 notifications can be updated at any time. Therefore, changes can be made including on the data reported and the annexes supplied.

Further practical guidance on how to submit your Article 66 REACH notification to ECHA is provided in the following links:

- ECHA Video tutorial on how to submit a downstream user notification HIGHLY RECOMMENDED!!
- Downstream user notifications of authorized uses: Information made public by ECHA

EUI-1204163127v3

[11] Estimated date – 6 months after publication of authorization decisions.

April 4, 2019

Questions & Answers

CTACSub Consortium[1] (CTAC Submission Consortium)

REACH Authorization of Certain Uses of Chromium Trioxide

Question 1: **What is the status of these applications for authorizations?**

Response: The REACH Committee of the European Commission approved the CTACSub authorization Decision on February 15, 2019 and the Commission was therefore expected to issue it towards the end of March.[2] However, on March 7, the EU General Court issued a ruling (T-837/16) on another authorization which sets strict conditions for the future Commission's decision making. Pursuant to the ruling and a European Parliament Resolution of March 27, 2019 requesting that the Commission withdraw the CTACSub decision and submit a new draft, the Commission will now re-discuss the draft authorization Decision at the next REACH Committee meeting on April 11/12. There are numerous other draft authorization decisions which will also be discussed on April 11/12 to evaluate the impact from the General Court ruling.

Question 2: Will the Commission reject the applications for authorization after the General Court ruling and the European Parliament Resolution?

Response: First, the European Parliament Resolution, which was adopted with only 309 votes in favour and 286 votes against, has no binding force on the Commission. However, the Commission will re-evaluate its work and check whether the draft authorization Decision is still correct and whether it complies with the principles set up by the General Court. Given that the authorization is supported by ECHA's RAC and SEAC committees and most of the EU Member States (24 out of 28 votes in favour at the REACH Committee in February), we expect that the Commission will continue to propose authorization. There could be, however, some changes to the text, to reflect the General Court ruling. We do not expect changes to the review periods.

Question 3: Assuming the Member States will approve and the Commission will adopt the authorization decisions, what is the timing?

Response: If adopted in June, we can expect notification of the authorization Decision by mid-July. Assuming the review periods stay as is, the use of chromium trioxide would be authorized until mid-July 2023[3] for Uses 3 (functional plating with decorative character), 5 (miscellaneous surface treatment) and 6 (passivation of tin-plated steel (ETP)), and until September 21, 2024 for Uses 1 (formulation), 2 (functional plating) and 4 (surface treatment in the aeronautics and aerospace industry).

Any company that seeks to continue its use beyond the respective review period can either introduce its own application for authorization as soon as possible (ideally 24 months before the end of the respective review period so as to account for sufficient time for European Union decision making) or it should seek assurances from its suppliers that they will introduce review reports to extend authorization.

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3 This is counted as four years following the adoption of the authorization Decisions (see footnote 2).

Question 4: What will happen with a UK downstream user relying on a REACH authorization granted to an EU-based entity prior to the UK's withdrawal from the EU? What should the downstream user do?

Response: A UK downstream user of a REACH authorization held by an EU-based company can continue to use the relevant substance in accordance with the conditions of the authorization provided that he/she within **60 days** (e.g. May 29, 2019) of the UK's withdrawal from the EU:

- Submits to the UK Health and Executive ("HSE") the information that he/she is a an existing authorized downstream user under REACH with reference to the particular substance; and
- Notifies the HSE of: (i) the existing REACH authorization; (ii) the conditions (if any) laid down in the existing authorization; (iii) the identity of the EU-based supplier.

Question 5: What will happen with a UK downstream user relying on a REACH application for authorization ("AfA") by an EU-based company where the European Chemicals Agency ("ECHA") has adopted its final opinion but the European Commission has not made a final decision – e.g. the case of the CTACSub AfA? What should downstream users do?

Response: The current HSE Guidance is not quite clear on this situation. It would seem that under this scenario, downstream users must by **September 26, 2019**:

- Notify the AfA to the UK Secretary of State for Department of Environment, Food & Rural Affairs ("Defra");
- Supply the Defra Secretary of State with copies of the application, the information included in it, and any other information provided to ECHA by the applicant for the authorization which was material to the formation of ECHA's opinion;
- Provide the Secretary of State with copies of the final opinion ECHA sent to the applicant.

Assuming the authorization Decisions will not be adopted before the date of Brexit and assuming that there will be no transitional regime between the EU and the UK, the CTACSub applicants will send their applications for authorizations and ECHA opinions to the Defra Secretary of State, so that he can authorize the uses in the UK. However, no details are known yet about the procedures in the UK post Brexit. There is an expectation that there is a fast-track procedure for these situations and that EU based upstream applicants can apply via a UK based Only Representative, but this is not confirmed.

It is also unclear (no clear guidance available from the UK) whether UK downstream users of EU based applicants can continue their use until the Defra Secretary of State issues his decision. Under current HSE guidance, it would appear that only downstream users of UK applicants can continue their use, but not downstream users of EU based companies. We therefore recommend to UK downstream users that they contact HSE to determine the way forward. CTACSub has contacted HSE but has not yet received a response. We will update this Q&A as soon as reliable information from the UK will become available.

Further information on Question 4 and Question 5 is provided by Defra in the *"UK REACH Guidance if there is no Brexit deal"*, in particular Scenarios 5 and 7, available at: http://www.hse.gov.uk/brexit/uk-reach-additional-guidance.pdf, as well as on the HSE website at: http://www.hse.gov.uk/brexit/reach.htm and http://www.hse.gov.uk/brexit/further-info.htm

The HSE REACH helpdesk can be contacted at: http://www.hse.gov.uk/reach/helpdesk.htm

Question 6: Will the upstream suppliers seek to extend their authorizations and thus introduce review reports at the latest 18 months before the end of the respective review periods?

Response: The authorization holders have not yet decided this. Their decision will depend, among others, on the following factors:

- ✓ The consumption of the substance in the EU;
- ✓ The availability of comprehensive exposure and emissions monitoring data from the downstream users reporting to ECHA by July 2020[4];
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- ✓ The impact of the General Court judgement on the Commission's decision making practice.

Question 7: What impact do the authorization decisions have for downstream users?

Response: Downstream users in the supply chain of the applicants can continue their uses until the end of the respective review periods (see above) if they can demonstrate to the competent authorities of the EU Member States that they belong to the same supply chain as the authorization holders, their uses fit within the use descriptions of the decisions, they are compliant with the operational conditions and risk management measures set out in the applications for authorization and the decisions, and the conditions of the decisions are complied with.

Question 8: **What immediate steps do downstream users have to take now?**

Response: Once the authorization Decisions will have been issued, as a next immediate step, downstream users of chromium trioxide must notify their chromium trioxide uses to the European Chemicals Agency (ECHA) under Article 66 REACH within three months of the publication of the authorization Decisions in the EU Official Journal, thus at the latest on or around **mid-October, 2019.** If you do not comply with this obligation, you might be imposed a fine by your national enforcement authority and/or the national authority may ask you to stop the use of chromium trioxide until you have filed the Article 66 notification with ECHA. Please see chart below on actions and timelines.

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Response: The labels and safety data sheets of chromium trioxide will contain authorization numbers. The authorization numbers are 'use'-specific, so downstream users need to select for their Article 66 ECHA notification the specific authorisation number(s) that correspond to their use. Authorisation numbers have the format 'REACH/x/x/x'. In case distributors or formulators supply the substance (or chromium trioxide in mixture), the safety data sheets and labels may possibly contain several authorization numbers. It is important that downstream users do not accept any deliveries without authorization numbers (unless they receive their chromium trioxide from a supplier whose application is still pending), as they will critically need those numbers for their Article 66 ECHA notification (see above).

Question 10: What authorization number should the downstream user notify to ECHA in case he uses up chromium trioxide supplied before the date of authorization?

Response: As a matter of practicality, he should use the authorization number mentioned in the next delivery of his usual supplier.

Question 11: Can a downstream user continue to use chromium trioxide that he holds in stock previously received from a supplier who does not hold an authorization (or has no application pending introduced before March 21, 2016)?

Response: NO.

Question 12: **What does a downstream user do in case of an inspection?**

Response: First, please note that the REACH Forum [6] has decided that compliance with REACH authorizations for chromates will be a priority of national enforcement in 2019. Downstream users should therefore expect an inspection at the latest in 2019. Several Member States (including France and the United Kingdom) started inspection campaigns already in 2017, immediately after the Sunset Date had passed.

In case of an inspection, the inspector will ask the downstream user for his Article 66 REACH notification. The Downstream user should also be able to demonstrate and have documented by a self-assessment that his activity falls within the scope of the authorization decisions, and that he applies as a minimum the operational conditions and risk management measures described in the applications and decisions. Moreover, he should demonstrate that he is compliant with national legislation on health & safety at the workplace, including occupational exposure limits, the obligation to make a safety assessment for each workplace and to observe the hierarchy of prevention measures for carcinogens at the workplace.

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Response: YES. CTACSub has developed and published[7] a series of easily comprehensible illustrative practical Task Sheets ('Good Practice Sheets'; 'GPS') that set out the operational conditions and risk management measures that are recommended when handling chromium trioxide. The GPS also contain advice on personal protective equipment and exposure / emissions monitoring. The GPS do not replace the exposure scenarios in the safety data sheets, but both are consistent. The GPS are just easier to understand for non-experts.

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[7] See http://www.jonesdayreach.com/SitePages/Home.aspx

Question 14: Do the authorization Decisions impose specific conditions on 'articles for supply to the general public'?

Response: YES. An authorization holder and its downstream users must ensure that there is no chromium (VI) above the detectable level present in articles for supply to the general public under Use 5. Please note that the CTACSub Consortium will issue recommendations for test standards to use to prove that no chromium (VI) residues are present.

'Articles for supply to the general public' have been defined by the European Commission[8] as 'articles put at the disposal of the general public', regardless of the type of ownership (public or private) or the specific type of transaction by which the objects were put at the disposal of the general public. 'Supply to the general public' excludes articles intended for professional use, since according to ECHA the concept of 'professional use' should be understood "*[…] as a characteristic to distinguish between use: i) at industrial sites and ii) uses outside industrial sites (but not consumers or general public).*"[9]

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ANNEX 1

Note for Downstream Users on Article 66 REACH notifications

April 4, 2019

CTACSub Consortium

The European Commission is expected to publish around July 15, 2019 the REACH authorization decisions for the six uses of chromium trioxide (EC 215-607-8; CAS 1333-82-0) applied for in May 2015 by the following seven authorization holders:

- Atotech Deutschland GmbH;
- Aviall Services Inc;
- CROMITAL S.P.A in its legal capacity as Only Representative of Soda Sanayii A.S.;
- Elementis GmbH in its legal capacity as Only Representative of Elementis Chromium Inc.;
- LANXESS Deutschland GmbH in its legal capacity as Only Representative of LANXESS CISA (Pty) Ltd.;
- MacDermidEnthone GmbH; and
- Prospere Logistic Baltic OÜ in its legal capacity as Only Representative of Aktyubinsk Chromium Chemicals Plant, Kazakhstan. [10]

If you are a downstream user ('DU') of chromium trioxide delivered directly or indirectly (e.g. through a formulator or distributor) from any of the seven companies above, you are obliged to notify your chromium trioxide uses to the European Chemicals Agency (ECHA) under Article 66 REACH within three months of the publication of the authorization decisions in the EU Official Journal, thus at the latest on or around October 15, 2019. If you do not comply with this obligation, you might be imposed a fine by your national enforcement authority, and/or the national authority may ask you to stop the use of chromium trioxide until you have filed the Article 66 notification with ECHA.

You must submit your Article 66 notification electronically in an on-line form made available by ECHA on its REACH-IT system. This means that as a **first step** – unless you have previously done this already for other reasons - you must 'open a REACH-IT account'. Please note down your User name and Password when opening the account. Once this first step is completed, you can submit as a **second step** your Article 66 notification though REACH-IT. In order to do so, you will need to prepare and have the following minimum information at hand:

- ✓ The name of your company, the address of the sites where the substance is used, and the relevant contact details.
- ✓ The substance and the name of the authorised use, which are identified by the authorisation number. You will find the authorization number on the label and/or Safety Data Sheets (SDS) furnished by your substance supplier. The Article 66 notification template provides a drop-down list of all authorization numbers from which you must choose one.
- ✓ The usual annual volume and the number of workers using the substance (this is voluntary information).
- ✓ If you obtain your chromium trioxide or solution containing chromium trioxide from more than one supplier, you have to file as many notifications as the number of your suppliers. In order to avoid

[10] For further information on the authorization decisions, please see CTACSub Consortium Press release of February 21, 2019, available at: http://www.jonesdayreach.com/SitePages/News.aspx

double-counting of tonnage and workers exposed, you have to, in the case of more than one supplier, split the number of workers exposed and the tonnage received so that the figure is accurate.

- ✓ A brief additional description of your use (e.g. the type of products you manufacture or the market segments where they are supplied) and any involvement in substitution activities (again, this is voluntary information).

After you are finished with filing your notification, you should write down the 'submission number' and print the report of your notification. You will need the submission number for any future notification updates.

Very importantly, since the authorizations have been granted with conditions, DUs have to comply with these conditions. This means that all DUs that rely on the above authorizations **have to conduct annual workers exposure and environmental (air emissions and waste water) monitoring, and the results of this monitoring must be submitted to ECHA in the Article 66 notification.** However, the first notification of workers exposure and environmental information is not due until 12 months after the publication of the authorization decisions, so on and around **July 15, 2020.** Please note that the CTACSub Consortium will issue a reporting format for exposure monitoring at the beginning of **July 2019**. CTACSub recommends to use this monitoring format for compliance with the authorization decisions' monitoring requirements. Therefore, CTACSub recommends not to submit monitoring data under the Article 66 notification in the initial (October 15, 2019) notification but only later, when the new monitoring format will be available and the DUs have conducted their first measurement campaigns (which must be done by January 15, 2020)[11]. This can be easily done by an **'update' of the earlier Article 66 notification**.

Be aware that the monitoring data will have to be uploaded in an Annex of the Article 66 notification.

Confidentiality Issues

Please note that ECHA publishes certain information from the Article 66 notifications, i.e. the substance name, the Member State where the use takes place, whether the notification's status is active or inactive and the tonnage band in an aggregated form, if quantity data was provided. On the other hand, certain information notified under Article 66 is provided **automatically** to the authorization holders, namely the monitoring data referred to above. You can therefore not prevent the monitoring data being submitted to the authorization holders. All you can do is to delete your company identification from the monitoring data, so that your company identity is not revealed to the authorization holders.

DUs have the right to claim confidentiality on their: company name, location of the site of use, name of the notified use, brief additional description of use, and information on substitution activities. If you do not claim confidentiality, ECHA will publish these details too. If you claim confidentiality, you will have to provide justifications for the confidentiality claim to ECHA.

As already noted above, Article 66 notifications can be updated at any time. Therefore, changes can be made including on the data reported and the annexes supplied.

Further practical guidance on how to submit your Article 66 REACH notification to ECHA is provided in the following links:

- ECHA Video tutorial on how to submit a downstream user notification HIGHLY RECOMMENDED!!
- Downstream user notifications of authorised uses: Information made public by ECHA

[11] Estimated date – 6 months after publication of authorization decisions.

PRESS RELEASE[1]
FEBRUARY 21, 2019

The **CTACSub Consortium** (CTAC Submission Consortium)[2] is pleased to confirm that after a delay of more than two years, the European Commission will finally authorize the applied for six essential uses of chromium trioxide (EC 215-607-8; CAS 1333-82-0), after a qualified majority vote (24 in favor, 4 against) in the REACH Committee on February 15, 2019.

The review periods granted are 7 years from the Sunset Date for Use 1 (formulation), Use 2 (hard chrome plating), and Use 4 (surface treatment aeronautics and space); and 4 years from the date of the authorization decision for Use 3 (functional chrome with decorative character), Use 5 (miscellaneous surface treatment) and Use 6 (passivation of tin-plated steel (ETP)).

The authorization decisions contain a number of conditions, which will be challenging to comply with, including on timing. The time lines are set out below.

Date	**Action**
April 1, 2019	Authorization decision notified to applicants (**date estimated**)
July 1, 2019	Authorization holders to draw up and distribute (as annexes to safety data sheets) specific exposure scenarios for representative processes, operations and individual tasks
July 1, 2019	Downstream users to notify uses to ECHA under Art. 66 REACH
October 1, 2019	Downstream users to finish first exposure measurement campaigns
April 1, 2020	Downstream users to notify data from exposure measurements and air and waste water monitoring to ECHA
October 1, 2020	Authorization holders to validate exposure scenarios with new data from exposure measurements and air / wastewater monitoring which they will have received from Downstream users via ECHA
October 1, 2021	Authorization holders to file review report for Uses 3, 5, and 6 if they decide to continue upstream application
April 1, 2023	End of review period for Uses 3, 5 and 6
March 21, 2023	Authorization holders to file review report for Uses 1, 2 and 4 if they decide to continue upstream application
September 21, 2024	End of review period for Uses 1, 2, 4

Dr. Martin Kleban, Chair of CTACSub explains: *"The authorization holders will now actively work together with Downstream users to implement the authorization decisions. The success of implementation will heavily depend on whether the Downstream users will all provide to ECHA complete and accurate measurement and monitoring data. Downstream user compliance will also play a major role in the decision how the authorization holders will approach the review reports, i.e. whether they will continue with upstream application or not."*

The CTACSub Consortium has made available Good Practice Sheets and Q&As to help with implementation, see at www.jonesdayreach.com.

Attachment: *Text adopted at REACH Committee February 15, 2019*

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1 For additional information, please contact the CTACSub Consortium Manager uschliessner@jonesday.com, tel. +32 2-6451460 or see at www.jonesdayreach.com

2 Atotech Deutschland GmbH; Aviall Services Inc; CROMITAL S.P.A in its legal capacity as Only Representative of Soda Sanayii A.S.; Elementis Chromium LLP in its legal capacity as Only Representative of Elementis Chromium Inc.; LANXESS Deutschland GmbH in its legal capacity as Only Representative of LANXESS CISA (Pty) Ltd.; MacDermidEnthone GmbH; Prospere Logistic Baltic OÜ in its legal capacity as Only Representative of Aktyubinsk Chromium Chemicals Plant, Kazakhstan.

EUROPEAN
COMMISSION

Brussels, XXX
[…](2019) XXX draft

COMMISSION IMPLEMENTING DECISION

of XXX

granting an authorisation for certain uses of chromium trioxide under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (Lanxess Deutschland GmbH and others)

(ONLY THE ENGLISH TEXT IS AUTHENTIC)

EUI-1203826419v1

COMMISSION IMPLEMENTING DECISION

of XXX

granting an authorisation for certain uses of chromium trioxide under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (Lanxess Deutschland GmbH and others)

(ONLY THE ENGLISH TEXT IS AUTHENTIC)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC[1], and in particular Article 64(8) thereof,

Whereas:

(1) Chromium trioxide is listed in Annex XIV to Regulation (EC) No 1907/2006 and therefore subject to the authorisation requirement referred to in Article 56(1)(a) of that Regulation.

(2) On 11 May 2015, LANXESS Deutschland GmbH (acting as only representative of the LANXESS CISA (Pty) Ltd), Atotech Deutschland GmbH, Aviall Services Inc, Enthone GmbH[2], BONDEX TRADING LTD (acting as only representative of Aktyubinsk Chromium Chemicals Plant), CROMITAL S.P.A. (acting as only representative of Soda Sanayii A.S.) and Elementis Chromium LLP (acting as only representative of Elementis Chromium Inc) ('the applicants') submitted, in accordance with Article 62 of Regulation (EC) No 1907/2006, an application for authorisation for the uses of chromium trioxide in the formulation of mixtures ('use 1'); in functional chrome plating ('use 2'); in functional chrome plating with decorative character ('use 3'); in surface treatment for applications in the aeronautics and aerospace industries (unrelated to functional chrome plating or functional chrome plating with decorative character) ('use 4'); in surface treatment (except passivation of tin-plated steel (electrolytic tin plating - ETP)) for applications in various industry sectors namely architectural, automotive, metal manufacturing and finishing, and general engineering (unrelated to functional chrome plating or functional chrome plating with decorative character) ('use 5'); and in passivation of tin-plated steel (ETP) ('use 6').

[1] OJ L 396, 30.12.2006, p. 1.

[2] Enthone GmbH subsequently changed its name to MacDermid Enthone GmbH.

(3) On 21 March 2018 a legal entity change was notified to the European Chemicals Agency (the 'Agency') pursuant to which the application was transferred from the original applicant BONDEX TRADING LTD to Prospere Logistic Baltic OÜ.

(4) On 30 September 2016, the Commission received the opinions of the Committee for Risk Assessment (RAC) and the Committee for Socio-economic Analysis (SEAC) of the Agency[3] on the application, pursuant to the second subparagraph of Article 64(5) of Regulation (EC) No 1907/2006.

(5) In its opinions, RAC confirmed that it is not possible to determine a derived no-effect level (DNEL) for the carcinogenic properties of chromium trioxide in accordance with Section 6.4 of Annex I to Regulation (EC) No 1907/2006 and therefore that chromium trioxide is a non-threshold substance for the purposes of Article 60(3)(a) of that Regulation. In accordance with that Article, Article 60(2) of Regulation (EC) No 1907/2006 does not apply to that substance, and therefore an authorisation may only be granted on the basis of Article 60(4) of that Regulation.

(6) In its opinions on uses 1 to 5, RAC concluded that the risk management measures and operational conditions as described in the application are not appropriate and effective in limiting the risks to workers.

(7) Concerning uses 1 to 5, RAC concluded that there are significant uncertainties regarding worker exposure due to limited availability of measured exposure data. It further concluded that a prevalent lack of contextual information has made it difficult to establish a link between the operational conditions and risk management measures described in the application and the claimed exposure levels for specific tasks and sites, thereby preventing RAC from further evaluation. Those uncertainties concern the reliability and representativeness of the exposure data and how it relates to the specific risk management measures in place, particularly for use 4 where, in addition to bath immersion, different activities including spraying, rolling, brushing and machining operations are covered by the application and the applicant has not been able to fully assess the combined exposure related to all those tasks. Nevertheless the Commission considers that those uncertainties did not prevent SEAC from further analysing the application.

(8) Concerning uses 1 to 5, RAC further concluded that uncertainties also exist in the assessment of exposure of the general population to the substance, via the environment, at the local scale, particularly regarding emission of chromium (VI) via wastewater. This is particularly relevant as regards oral exposure via drinking water. However, RAC considered the assessment of risks to man via the environment provided to be sufficient for further analysis by SEAC, noting that the approach by the applicants is based on assumptions that are likely to overestimate the risks to the general population. Regional exposure, although estimated by the applicants, was not considered relevant by RAC due to transformation of chromium (VI) to non-carcinogenic chromium (III) that occurs rapidly under most environmental conditions.

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[3] https://echa.europa.eu/documents/10162/a43a86ab-fcea-4e2b-87d1-78a26cde8f80
https://echa.europa.eu/documents/10162/dc9ea416-266e-4f49-88cb-35576f574f4a
https://echa.europa.eu/documents/10162/fab6fe18-3d69-483b-8618-f781d18d472e
https://echa.europa.eu/documents/10162/0f5571f8-d3aa-4031-9454-843cd7f765a8
https://echa.europa.eu/documents/10162/6ee57573-de19-43b5-9153-dad5d9de3c1e
https://echa.europa.eu/documents/10162/ab92f048-a4df-4d06-a538-1329f666727a

(9) In its opinions on uses 1 to 5, due to the uncertainties in the assessment of risks to workers and to man via the environment, RAC recommended additional conditions and monitoring arrangements for the authorisation. The Commission, having evaluated RAC's assessment, concurs with that conclusion.

(10) In its opinion on use 6, RAC concluded that the risk management measures and operational conditions as described in the application, and as further detailed by the applicants at the request of RAC, are appropriate and effective in limiting the risks to workers and the general population that could potentially be exposed via the environment. However, RAC concluded that there is a lack of specific data for the nine sites concerned and that uncertainties exist in the assessment of exposure of the general population to the substance, via the environment, at the local scale, particularly regarding emission of chromium (VI) via wastewater and related oral exposure via drinking water. Nonetheless, RAC considered the assessment to be sufficient for further analysis by SEAC, noting that the approach by the applicants was based on assumptions that were likely to overestimate the risks to the general population. Regional exposure, although estimated by the applicants, was not considered relevant by RAC due to transformation of chromium (VI) to non-carcinogenic chromium (III) that occurs rapidly under most environmental conditions. RAC further acknowledged that the description of contributing scenarios and the exposure assessment in the application would have benefitted from an assessment more specific to use 6 and that there are some uncertainties related to the frequency and combination of tasks performed by individual workers but considered the impact of those uncertainties on total exposure to be low.

(11) In its opinion on use 6, due to the uncertainties in the combination and frequency of tasks performed by individual workers, in order to address the variability of the operational conditions and risk management measures implemented among different sites and due to the limited representativeness of the data supporting the assessment of the exposure of man via the environment, RAC recommended additional conditions and monitoring arrangements for the authorisation. The Commission, having evaluated the RAC's assessment, concurs with that conclusion.

(12) In its opinions as regards all six uses of chromium trioxide applied for, SEAC concluded that the overall socio-economic benefits arising from each of those uses outweigh the risk to human health arising from those uses. Concerning use 1, SEAC noted that the socio-economic benefits arising from the use of the substance, based on the expected social costs due to job losses alone, clearly outweigh the monetised human health impacts, which are calculated based on a worst case scenario. Other benefits, based on the avoided negative impacts due to disruptions in the supply chain, further strengthen that conclusion. Concerning uses 2, 3, 4, 5 and 6, SEAC noted that the socio-economic benefits arising from the use of the substance, based on the expected profit losses or on the social costs due to job losses alone, clearly outweigh the monetised human health impacts, which are calculated based on a worst case scenario. Other benefits, based on the avoided significant negative impacts due to disruptions in the supply chain for a number of affected industry sectors, further strengthen this conclusion. The Commission, having evaluated SEAC's assessment, concurs with those conclusions.

(13) In its opinion on use 1, considering that chromium trioxide has no function at the stage of formulation and consequently an assessment of the feasibility of alternatives for that use is irrelevant, SEAC concluded that there are no suitable alternative substances or

technologies. The Commission, having evaluated SEAC's assessment, concurs with that conclusion.

(14) In its opinions on uses 2, 3, 4 and 5, SEAC concluded that there are no suitable alternative substances or technologies. Due to the very broad scope of the intended uses, SEAC could not exclude possible uncertainty with regard to the technical feasibility of alternatives for a limited number of specific applications that are covered by the description of the uses applied for.

(15) In order to ensure that the authorisation covers only those uses for which no suitable alternatives are available, the Commision considers necessary to further specify the description of the uses by aligning it with the conclusions of the analysis of alternatives as presented in the application and as assessed by SEAC.

(16) Therefore, the description of the authorised uses should be further specified by referring it to uses where any of the following key functionalities or properties, or a combination thereof is necessary for the intended use: wear resistance, hardness, layer thickness, corrosion resistance, coefficient of friction, and effect on surface morphology concerning use 2; corrosion resistance, chemical resistance, wear/abrasion resistance, prevention of nickel leaching, adhesion, hardness, sunlight/UV resistance, temperature/heat resistance, electrical conductivity, reflection behaviour/absorption capability, and aesthetics concerning use 3; corrosion resistance/active corrosion inhibition, chemical resistance, hardness, adhesion promotion (adhesion to subsequent coating or paint), temperature resistance, resistance to embrittlement, wear resistance, surface properties impeding deposition of organisms, layer thickness, flexibility, and resistivity concerning use 4; corrosion resistance/active corrosion inhibition, layer thickness, humidity resistance, adhesion promotion (adhesion to subsequent coating or paint), resistivity, chemical resistance, wear resistance, electrical conductivity, compatibility with substrate, (thermo) optical properties (visual appearance), heat resistance, food safety, coating tension, electric insulation, and deposition speed concerning use 5.

(17) Concerning use 4, the application referred to the 'inhibition of biological organisms, biostatic properties' as key functionalities or properties, or a combination thereof, for achievement of which the use of chromium trioxide is necessary. Such a reference in the description of use may create confusion with the use of chromium trioxide as a biocidal product as defined in Article 3(1)(a) of Regulation (EU) No 528/2012 of the European Parliament and of the Council[4]. Under that Regulation chromium trioxide cannot be placed on the market, nor used as a biocidal product, and this Decision cannot authorise such use, in accordance with Article 56(4)(b) of Regulation (EC) No 1907/2006. Therefore, to avoid confusion, the term 'inhibition of biological organisms, biostatic properties' should be replaced by 'surface properties impeding deposition of organisms' in the description of use 4 as authorised by this Decision, as chromium trioxide is in fact used for achieving or enabling that latter function or properties.

(18) In addition, the Commission took note of the complexity of the supply chains concerned by the uses applied for, the time and investment necessary to implement a potential alternative, as well as the time necessary for its industrialisation and for the qualification of the resulting products in the supply chains. The Commission, having evaluated

[4] Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

SEAC's assessment, and taking the above considerations into account, concurs with the conclusion that there are no suitable alternative substances or technologies for uses 2, 3, 4 and 5.

(19) In its opinion on use 6, SEAC concluded that there are no suitable alternative substances or technologies. The Commission, having evaluated SEAC's assessment, concurs with that conclusion.

(20) Concerning use 5, in order to ensure that the general public is not exposed to residual chromium VI in articles, it is appropriate to impose a condition excluding the presence of chromium (VI) in such articles.

(21) Therefore, in accordance with Article 60(4) of Regulation (EC) No 1907/2006, it is appropriate to authorise the six uses of chromium trioxide applied for, as specified by this Decision, provided that the risk management measures and operational conditions described in the application and in particular in the chemical safety report[5], as well as the conditions set out in this Decision, are fully applied.

(22) In its opinions, SEAC recommended the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 to be set at seven years for uses 1, 2 and 4 and at four years for uses 3, 5 and 6. The Commission takes into account the relevant elements from RAC's and SEAC's assessments, and in particular, concerning use 1, the concerns related to the appropriateness and effectiveness of the risk management measures and operational conditions, the recommended additional conditions and monitoring arrangements to address those concerns, the fact that chromium trioxide has no independent function at the stage of formulation and, consequently, that any substitution for use 1 is interlinked with the substitution of the subsequent uses of the formulated mixtures, the expected social costs due to unemployment and the expected negative economic consequences in the supply chain in case of no authorisation. Concerning uses 2, 3, 4, and 5, the Commission takes into account in particular the concerns related to the appropriateness and effectiveness of the the risk management measures and operational conditions, the strict additional conditions and monitoring arrangements imposed by this Decision to address those concerns, the time necessary to implement and industrialise possible alternatives should they become available, the uncertainties arising from the applicant's approach mainly due to the broad scope of the uses applied for, the expected social costs due to unemployment and the expected significant negative economic consequences in the supply chain in case of no authorisation. Concerning use 6, the Commission takes into account in particular the concerns related to the appropriateness and effectiveness of the the risk management measures and operational conditions in limiting the risk, the time necessary to implement and industrialise a promising alternative should one become available, the uncertainties arising from the applicants' approach mainly due to the broad scope, the expected social costs due to unemployment and the expected significant negative economic consequences in the

[5] http://ec.europa.eu/DocsRoom/documents/20633
http://ec.europa.eu/DocsRoom/documents/20634
http://ec.europa.eu/DocsRoom/documents/20635
http://ec.europa.eu/DocsRoom/documents/20636
http://ec.europa.eu/DocsRoom/documents/20637
http://ec.europa.eu/DocsRoom/documents/20638

supply chain in case of no authorisation. Based on the above, the Commission concurs with SEAC's recommendations concerning the review periods for the six uses.

(23) Considering that the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006 must be submitted at least 18 months before the expiry of the review period, and in view of the conditions of the authorisation and the timelines thereof, the review period recommended by the SEAC for uses 3, 5 and 6 would make it practically impossible for the authorisation holders to submit a review report in the present case. Therefore, for those uses, it is appropriate to provide for the review period of four years from the date of adoption of this Decision, in order to provide the authorisation holders an adequate period of time to prepare a review report.

(24) Furthermore, it is appropriate that the review period be set at seven years as from the sunset date set out in Annex XIV to Regulation (EC) No 1907/2006 as regards uses 1, 2 and 4.

(25) In its opinions for uses 2, 3, 4 and 5, due to the broad scope of these uses, SEAC recommended that in the event that the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006 is submitted, the authorisation holder should refine the description of the authorised uses or provide more detailed assessment of the uses applied for. The Commission concurs with that recommendation.

(26) The language used for the description of the risk management measures and operational conditions included in the application for authorisation may be different from the official languages of the Member States where the uses take place. Therefore, in order to facilitate the enforcement of the authorisation, it is appropriate to require the authorisation holders to submit, upon request, a succinct summary of those risk management measures and operational conditions in an official language of the Member States concerned.

(27) This Decision does not affect the obligation of the authorisation holders to ensure that the uses do not adversely affect human health or the environment pursuant to Article 1(3) of Regulation (EC) No 1907/2006. Furthermore, it does not affect the obligation of the authorisation holders to ensure that the exposure to the substance is reduced to as low a level as is technically and practically possible pursuant to Article 60(10) of Regulation (EC) No 1907/2006 and the obligation of the employer to reduce the use of a carcinogen or mutagen at the place of work, in particular by replacing it, in so far as is technically possible in accordance with Article 4(1) of Directive 2004/37/EC of the European Parliament and of the Council[6], or to prevent and reduce exposure in accordance with Article 5 of that Directive. Furthermore, this Decision is without prejudice to the application of Union law in the area of health and safety at work, in

[6] Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (OJ L 158, 30.4.2004, p. 50).

particular Council Directives 89/391/EEC[7], 92/85/EEC[8], 94/33/EC[9] and 98/24/EC[10] and Directive 2004/37/EC as well as any national binding occupational limit values which may be stricter than the applicable Union limit values.

(28) This Decision is without prejudice to any obligation to comply with emission limit values set in accordance with Directives 2008/50/EC[11] and 2010/75/EU[12] of the European Parliament and of the Council, as well as with emission limit values set to achieve compliance with the environmental quality standards established both by Member States in accordance with Directive 2000/60/EC of the European Parliament and of the Council[13] and in Directive 2008/105/EC of the European Parliament and of the Council[14]. Compliance with the provisions of this Decision should not necessarily result in compliance with emission limit values or environmental quality standards under other Union legislation, which may include separate or more onerous requirements.

(29) Since the United Kingdom notified on 29 March 2017 its intention to leave the Union, pursuant to Article 50 of the Treaty on European Union, the Treaties will cease to apply to the United Kingdom from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification, unless the European Council, in agreement with the United Kingdom, decides to extend that period. As a consequence, and without prejudice to any provisions of the withdrawal agreement, this Commission Decision, as far as it addresses a legal entity established in the United Kingdom, only applies until the United Kingdom ceases to be a Member State.

(30) The measures provided for in this Decision are in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS DECISION:

Article 1

An authorisation is granted in accordance with Article 60(4) of Regulation (EC) No 1907/2006 for the following uses of chromium trioxide (EC No 215-607-8; CAS No 1333-82-0), provided

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7 Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

8 Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, p. 1).

9 Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJ L 216, 20.8.1994, p. 12).

10 Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 131, 5.5.1998, p. 11).

11 Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

12 Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

13 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

14 Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84).

that the risk management measures and operational conditions described in the chemical safety report submitted pursuant to Article 62(4)(d) of that Regulation, and once available, according to the conditions described in the specific exposure scenarios to be developed pursuant to Article 2(2) of this Decision, as well as the conditions laid down in Articles 2, 3 and 4 of this Decision are fully applied:

Authorisation number	Authorisation holder	Authorised use
REACH/19/16/0	LANXESS Deutschland GmbH	Formulation of mixtures
REACH/19/16/1	Atotech Deutschland GmbH	
REACH/19/16/2	Aviall Services Inc	
REACH/19/16/3	Prospere Logistic Baltic OÜ	
REACH/19/16/4	CROMITAL S.P.A.	
REACH/19/16/5	Elementis Chromium LLP	
REACH/19/16/6	MacDermid Enthone GmbH	
REACH/19/16/7	LANXESS Deutschland GmbH	Functional chrome plating where any of the following key functionalities or properties, or a combination thereof, is necessary for the intended use: wear resistance, hardness, layer thickness, corrosion resistance, coefficient of friction, and effect on surface morphology
REACH/19/16/8	Atotech Deutschland GmbH	
REACH/19/16/9	Aviall Services Inc	
REACH/19/16/10	Prospere Logistic Baltic OÜ	
REACH/19/16/11	CROMITAL S.P.A.	
REACH/19/16/12	Elementis Chromium LLP	
REACH/19/16/13	MacDermid Enthone GmbH	
REACH/19/16/14	LANXESS Deutschland GmbH	Functional chrome plating with decorative character (where any of the following key functionalities or properties, or a combination thereof, is necessary for the intended use: corrosion resistance, chemical resistance, wear/abrasion resistance, prevention of nickel leaching, adhesion, hardness, sunlight/ UV resistance, temperature/ heat resistance, electrical conductivity,
REACH/19/16/15	Atotech Deutschland GmbH	
REACH/19/16/16	Aviall Services Inc	
REACH/19/16/17	Prospere Logistic Baltic OÜ	
REACH/19/16/18	CROMITAL S.P.A.	
REACH/19/16/19	Elementis Chromium LLP	
REACH/19/16/20	MacDermid Enthone GmbH	

		reflection behaviour/ absorption capability, and aesthetics)
REACH/19/16/21	LANXESS Deutschland GmbH	Surface treatment for applications in the aeronautics and aerospace industries, unrelated to functional chrome plating or functional chrome plating with decorative character (where any of the following key functionalities or properties, or a combination thereof, is necessary for the intended use: corrosion resistance / active corrosion inhibition, chemical resistance, hardness, adhesion promotion (adhesion to subsequent coating or paint), temperature resistance, resistance to embrittlement, wear resistance, surface properties impeding deposition of organisms, layer thickness, flexibility, and resistivity)
REACH/19/16/22	Atotech Deutschland GmbH	
REACH/19/16/23	Aviall Services Inc	
REACH/19/16/24	Prospere Logistic Baltic OÜ	
REACH/19/16/25	CROMITAL S.P.A.	
REACH/19/16/26	Elementis Chromium LLP	
REACH/19/16/27	MacDermid Enthone GmbH	
REACH/19/16/28	LANXESS Deutschland GmbH	Surface treatment (except passivation of tin-plated steel (electrolytic tin plating - ETP)) for applications in architectural, automotive, metal manufacturing and finishing, and general engineering industry sectors (unrelated to functional chrome plating or functional chrome plating with decorative character) (where any of the following key functionalities or properties, or a combination thereof, is necessary for the intended use: corrosion resistance/ active corrosion inhibition, layer thickness, humidity resistance, adhesion promotion (adhesion to subsequent coating or paint), resistivity, chemical resistance, wear resistance, electrical conductivity, compatibility with substrate, (thermo) optical properties (visual appearance), heat resistance, food safety, coating tension, electric insulation, and deposition speed)
REACH/19/16/29	Atotech Deutschland GmbH	
REACH/19/16/30	Aviall Services Inc	
REACH/19/16/31	Prospere Logistic Baltic OÜ	
REACH/19/16/32	CROMITAL S.P.A.	
REACH/19/16/33	Elementis Chromium LLP	
REACH/19/16/34	MacDermid Enthone GmbH	
REACH/19/16/35	LANXESS Deutschland GmbH	

REACH/19/16/36	Atotech Deutschland GmbH	Passivation of tin-plated steel (electrolytic tin plating - ETP)
REACH/19/16/37	Aviall Services Inc	
REACH/19/16/38	Prospere Logistic Baltic OÜ	
REACH/19/16/39	CROMITAL S.P.A.	
REACH/19/16/40	Elementis Chromium LLP	
REACH/19/16/41	MacDermid Enthone GmbH	

Article 2

1. The conditions set out in paragraphs 2 to 8 shall apply to the authorisations bearing numbers REACH/19/16/0 to REACH/19/16/34.

2. The authorisation holders shall develop specific exposure scenarios for representative processes, operations and individual tasks (including, for example, automatic versus manual systems and open versus closed systems and combinations thereof), describing risk management measures and operational conditions representative for all sites at which the authorised uses take place, used to control worker exposure to chromium (VI) and its emissions to the environment, in each of the specific scenarios. The exposure scenarios shall contain information on the exposure levels resulting from the implementation of those risk management measures and operational conditions. The authorisation holders shall select the risk management measures described in the exposure scenarios in accordance with Article 5 of Directive 2004/37/EC. The selection shall be duly documented and justified and made available to the competent authorities upon request. The specific exposure scenarios shall be made available to the downstream users to whom this Decision applies by virtue of Article 56(2) of Regulation (EC) No 1907/2006, at the latest on … *[insert date – three months from date of adoption of this Decision]*.

3. The exposure scenarios to be developed by the authorisation holders as referred to in paragraph 2 shall be validated and verified by them at the latest on … [*18 months from the date of adoption of this Decision*] by making an analysis of tasks, using exposure and emission data measured by downstream users and related contextual information and by means of representative programmes of occupational exposure and environmental releases measurements, relating to all processes described for the authorised uses.

4. The information to be made available to downstream users referred to in paragraph 2 shall also include detailed guidance on how to select and apply risk management measures. That information shall be submitted, upon request, to the competent authorities of the Member States where the authorised uses take place.

5. The authorisation holders and their downstream users to whom this Decision applies by virtue of Article 56(2) of Regulation (EC) No 1907/2006 shall implement the following monitoring programmes for chromium (VI):

(a) annual air monitoring programmes on occupational exposure to chromium (VI) in accordance with Article 5(5)(e) of Directive 2004/37/EC. The first measurements shall be performed without delay and at the latest on … [*six months from the date of adoption of this Decision*]. Those programmes shall be based on relevant standard methodologies or protocols and be representative of:

(1) the range of tasks undertaken where exposure to chromium is possible, including tasks involving process and maintenance workers;

(2) the operational conditions and risk management measures typical for each of those tasks:

(3) the number of workers potentially exposed;

(b) monitoring programmes for chromium (VI) emissions to wastewater and air from local exhaust ventilation. Those programmes shall be based on relevant standard methodologies or protocols and be representative of the operational conditions and risk management measures (such as waste water treatment systems, gaseous emission abatement techniques) used at the individual sites where measurements are carried out.

6. The information gathered via the measurements referred to in paragraph 5 and related contextual information shall be used by the authorisation holders and by their downstream users to whom this Decision applies by virtue of Article 56(2) of Regulation (EC) No 1907/2006, to regularly review the appropriateness and effectiveness of the risk management measures and operational conditions in place and to introduce measures to further reduce exposure and emissions.

7. The authorisation holders' downstream users to whom this Decision applies by virtue of Article 56(2) of Regulation (EC) No 1907/2006 shall make available to the Agency the information from the monitoring programmes referred to in paragraph 5, including the contextual information related to each set of measurements, for the first time by … [*12 months from the date of adoption of this Decision*], for transmission to the authorisation holder for the purpose of validating the exposure scenarios referred to in paragraph 2 and afterwards for the preparation of the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006. That information shall also be maintained and be made available by the authorisation holders and downstream users, upon request, to the competent authorities of the Member States where an authorised use takes place.

8. Following implementation by the authorisation holders' downstream users to whom this Decision applies of the revised risk management measures and operational conditions made available as part of the specific exposure scenarios in accordance with paragraph 2, those downstream users may reduce the frequency of measurements, once they can clearly demonstrate to the competent authority of the Member State where the use takes place that exposure to humans and releases to the environment have been reduced to as low a level as technically and practically possible and that the risk management measures and operational conditions correspond to the exposure scenarios developed in accordance with paragraph 2 and function appropriately.

Article 3

The authorisation for uses bearing authorisation numbers REACH/19/16/21 to REACH/19/16/34 shall be subject to the following condition: as regards spraying operations, the authorisation holders' downstream users to whom this Decision applies by virtue of Article 56(2) of Regulation (EC) No 1907/2006 shall apply the risk management measures and operational conditions set out in the Annex. The area in which spraying operations take place shall be restricted either physically by means of barriers and signalling or through the implementation of strict procedures during the activity, which shall continue being applied for a specified time after the spray application has ceased. Workers shall not remove the respiratory protective equipment (RPE) used in spraying operations until they have left the area of application.

Article 4

The authorisation bearing numbers REACH/19/16/28 to REACH/19/16/34 shall be subject to the condition that the authorisation holder and its downstream users ensure that there is no chromium (VI) above the detectable level present in articles for supply to the general public.

Article 5

1. The conditions set out in paragraphs 2 to 4 shall apply to the authorisations bearing numbers REACH/19/16/35 to REACH/16/19/41.

2. The authorisation holders' downstream users to whom this Decision applies by virtue of Article 56(2) of Regulation (EC) No 1907/2006 shall implement best practices to reduce workplace exposure to chromium trioxide and emissions to the environment to as low a level as technically and practically feasible, including the use of closed systems and automation, whenever possible. Where this is not possible, authorisation holders' downstream users to whom this Decision applies shall use local exhaust ventilation (LEV) systems that are appropriately designed, dimensioned, located and maintained to capture and remove chromium trioxide. Where closed systems and automation are not used, the non-use of LEV can only be justified in exceptional circumstances in case the use of LEV is technically impossible. The authorisation holders' downstream users to whom this Decision applies shall make the information on LEV systems put in place in the installations where the authorised uses are taking place, as well as of their maintenance available for inspection by the competent authorities.

3. Where RPE is needed to control exposure to chromium trioxide, it shall be used in accordance with standard procedures for use and maintenance and shall include procedures for fit testing of RPE masks, applied in accordance with relevant standards, ensuring training and medical fitness checking of the wearer, as well as supervision and maintenance of the RPE.

4. The authorisation holders' downstream users shall select the risk management measures described in the exposure scenarios in accordance with Article 5 of Directive 2004/37/EC. The selection shall be duly documented and justified and made available to the competent authorities upon request.

Article 6

1. As regards the uses bearing authorisation numbers REACH/19/16/0 to REACH/19/16/13 and REACH/19/16/21 to REACH/19/16/27, the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 shall expire on 21 September 2024.

   The authorisations referred to in the first subparagraph shall cease to be valid on 21 September 2024 with regard to the authorisation holders who have not submitted the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006 by 21 March 2023, unless a decision to withdraw the authorisation is adopted earlier.

2. As regards the uses bearing authorisation numbers REACH/19/16/14 to REACH/19/16/20 and REACH/19/16/28 to REACH/18/16/41, the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 shall expire on … [*four years from the date of adoption this Decision*].

   The authorisations referred to in the first subparagraph shall cease to be valid on … [*four years from the date of this Decision]* with regard to the authorisation holders who have not submitted the review report referred to in Article 61(1) of Regulation EC No 1907/2006 by… [*30 months from the date of adoption this Decision*], unless a decision to withdraw the authorisation is adopted earlier.

Article 7

1. The monitoring arrangements set out in paragraphs 2 to 5 shall apply to the authorisations bearing numbers REACH/19/16/35 to REACH/19/16/41.

2. The authorisation holders, as well as their downstream users to whom this Decision applies by virtue of Article 56(2) of Regulation (EC) No 1907/2006, shall implement at least annual air monitoring programmes for chromium (VI) in accordance with Article 5(5)(e) of Directive 2004/37/EC. The first measurements shall be performed without delay and at the latest on … [*six months from the date of adoption of this Decision]*. Those programmes shall be based on relevant standard methodologies or protocols and be representative of:

   (i) the range of tasks undertaken where exposure to chromium is possible, including tasks involving process and maintenance workers;

   (ii) the operational conditions and risk management measures typical for each of those tasks;

   (iii) the number of workers potentially exposed.

3. The authorisation holders and their downstream users shall implement monitoring programmes for chromium (VI) emissions to wastewater and air from local exhaust ventilation. Those programmes shall be based on relevant standard methodologies or protocols and be representative of the operational conditions and risk management measures (such as waste water treatment systems, gaseous emission abatement techniques) used at the individual sites where measurements are carried out.

4. The information gathered via the measurements referred to in paragraph 2 and related contextual information shall be used by the authorisation holders and by their

downstream users to whom this Decision applies by virtue of Article 56(2) of Regulation (EC) No 1907/2006, to regularly review the effectiveness of the risk management measures and operational conditions in place and to introduce measures to further reduce exposure and emissions.

5. The authorisation holders' downstream users, to whom this Decision applies by virtue of Article 56(2) of Regulation (EC) No 1907/2006, shall make available to the Agency the information from the monitoring programmes referred to in paragraph 2, including the contextual information associated to each set of measurements, for the first time by …[*12 months from the date of adoption of this Decision*], for transmission to the authorisation holder for the preparation of the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006. That information shall also be maintained and be made available by the authorisation holders and downstream users, upon request, to the competent authorities of the Member States where an authorised use takes place.

Article 8

In the event that a review report as referred to in Article 61(1) of Regulation (EC) No 1907/2006 is submitted, it shall include the following information:

(a) the information referred to in Article 2(2), including detailed guidance on how to select and apply risk management measures as per Article 2(4) and the information referred to in Article 2(5) and (6);

(b) the information referred to in Article 6(2);

(c) a refined assessment of the exposure to chromium (VI) of humans via the environment, as well as of the resulting risks. This assessment shall be carried out using a higher-tier exposure assessment model going beyond the default assumptions of the Guidance on Information Requirements and Chemical Safety Assessment[15] and in the European Union System for the Evaluation of Substances (EUSES) model and shall make use of specific emission information. All reasonably foreseeable routes of exposure of humans via the environment, including the oral route, shall be included in the assessment.

Article 9

On request of the competent authority of the Member State where the authorised uses take place, the authorisation holders shall submit to that authority a succinct summary of the applicable risk management measures and operational conditions described in the chemical safety report in an official language of that Member State.

Article 10

This Decision is addressed to:

(2) (1) LANXESS Deutschland GmbH, Kennedyplatz 1, 50569 Köln, NRW Germany;

(2) Atotech Deutschland GmbH, Erasmusstraße 20, 10553, Berlin, Germany;

[15] https://echa.europa.eu/guidance-documents/guidance-on-information-requirements-and-chemical-safety-assessment

(3) Aviall Services Inc, Schillingweg 40, 2153PL, Nieuw-Vennep, Noord-Holland, Netherlands;

(4) Prospere Logistic Baltic OÜ, Harju maakond, Kesklinna linnaosa, Parnu mnt 110-7 Tallinn, 11313 Estonia;

(5) CROMITAL S.P.A., Strada Quattro, Pal. A7, 20090, Assago (MI), Italia;

(6) Elementis Chromium LLP, Elementis ChromiumEaglescliffe, TS16 0QG, Stockton on Tees, United Kingdom;

(7) MacDermid Enthone GmbH, Elisabeth-Selbert-Str. 4, 40764, Langenfeld, Germany.

Done at Brussels,

For the Commission
Elżbieta BIEŃKOWSKA
Member of the Commission

EUROPEAN
COMMISSION

Brussels, XXX
[…](2019) XXX draft

ANNEX 1

ANNEX

to the

COMMISSION IMPLEMENTING DECISION
of XXX

granting an authorisation for certain uses of chromium trioxide under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (Lanxess Deutschland GmbH and others)

EUI-1203826420v1

ANNEX

1. Risk management measures and operational conditions referred to in Article 3 for spraying operations in working contributing scenarios numbers 2, 4, 6, 16, 24, 25 and 26 in the chemical safety report referred to in Article 1 of uses bearing authorisation numbers REACH/19/16/21 to REACH/19/16/27

Contributing scenario	**Duration and frequency of exposure**	**Concentration of the substance***	**Local exhaust ventilation (LEV) used**	**Respiratory protective equipment (RPE) used and its effectiveness**	**Other risk management measures**
WCS 2 (PROC 8b) Decanting – liquids	< 30 min (combined for WCS 2, 4 and 6)	Cr(VI) in mixture: substantial (10-50%)	yes	yes, full-face-mask with A2P3 filter, effectiveness 99.75%	good natural ventilation and medium level of containment
WCS 4 (PROC 5) Mixing-liquids		Cr(VI) in mixture: substantial (10-50%)			good natural ventilation and low level of containment
WCS 6 (PROC 8b) Re-filling of baths – liquids		Cr(VI) in mixture: substantial (10-50%)			good natural ventilation
WCS 16 (PROC 7) Surface treatment by spraying in spray cabin/spray booth	< 30 min	Cr(VI) in mixture: small (1-5%)	yes, fixed capturing hood (90% reduction)	yes, full-face-mask with A2P3 filter, effectiveness 99.75%	down-flow spray-room (80% reduction) and fixed capturing hood (90% reduction)
WCS 24 (PROC 8b) Cleaning of equipment – tools cleaning (closed system)	< 15 min	Cr (VI) in mixture: minor (5-10%)	yes, fixed capturing hood (90% reduction)	yes, full-face-mask with A2P3 filter, effectiveness 99.75%	good natural ventilation, closed system

Contributing scenario	Duration and frequency of exposure	Concentration of the substance*	Local exhaust ventilation (LEV) used	Respiratory protective equipment (RPE) used and its effectiveness	Other risk management measures
WCS 25 (PROC 8b) Cleaning and maintenance of equipment – tools cleaning (spray cabin)	< 15 min	Cr (VI) in mixture: minor (5-10%)	no		specialized ventilation: more than 10 ACH, indoor in spray room
WCS 26 (PROC 8b) Cleaning – Spray cabin and ancillary areas	< 15 min	Cr (VI) in mixture: minor (5-10%)	no		good natural ventilation

2. Risk management measures and operational conditions referred to in Article 3 for spraying operations in working contributing scenarios numbers 2, 4, 6, 16, 24, 25 and 26 in the chemical safety report referred to in Article 1 of uses bearing authorisation numbers REACH/19/16/28 to REACH/19/16/34

Contributing scenario	Duration and frequency of exposure	Concentration of the substance*	Local exhaust ventilation (LEV) used	Respiratory protective equipment (RPE) used and its effectiveness	Other risk management measures
WCS 2 (PROC 8b) Decanting – liquids	< 30 min (combined for WCS 2, 4 and 6)	Cr(VI) in mixture: substantial (10-50%)	yes	yes, full-face-mask with A2P3 filter, effectiveness 99.75%	good natural ventilation and medium level of containment
WCS 4 (PROC 5) Mixing-liquids		Cr(VI) in mixture: substantial (10-50%)			good natural ventilation and low level of containment
WCS 6 (PROC 8b) Re-filling of		Cr(VI) in mixture:			good natural ventilation

Contributing scenario	Duration and frequency of exposure	Concentration of the substance*	Local exhaust ventilation (LEV) used	Respiratory protective equipment (RPE) used and its effectiveness	Other risk management measures
baths – liquids		substantial (10-50%)			
WCS 16 (PROC 7) Surface treatment by spraying in spray cabin/spray booth	< 30 min	Cr(VI) in mixture: small (1-5%)	yes, fixed capturing hood (90% reduction)	yes, full-face-mask with A2P3 filter, effectiveness 99.75%	down-flow spray-room (80% reduction)
WCS 24 (PROC 8b) Cleaning of equipment – tools cleaning (closed system)	< 15 min	Cr (VI) in mixture: minor (5-10%)	yes, fixed capturing hood (90% reduction)	yes, full-face-mask with A2P3 filter, effectiveness 99.75%	good natural ventilation, closed system
WCS 25 (PROC 8b) Cleaning and maintenance of equipment – tools cleaning (spray cabin)	< 15 min	Cr (VI) in mixture: minor (5-10%)	no		specialized ventilation: more than 10 ACH, indoor in spray room
WCS 26 (PROC 8b) Cleaning – Spray cabin and ancillary areas	< 15 min	Cr (VI) in mixture: minor (5-10%)	no		good natural ventilation

UPDATE

May 7, 2018

Questions & Answers

See also translations into German, French, Spanish and Italian below

CTACSub Consortium[1] (CTAC Submission Consortium)

Applications for REACH Authorization of Certain Uses of Chromium Trioxide[2]

Question 1: **What is the status of these applications for authorizations?**
Response: The ECHA Committees for Risk Assessment (RAC) and Socio-economic Analysis (SEAC) recommended in September 2016 that the European Commission ('Commission') grant the authorizations for continuation of the 6 uses of chromium trioxide (EC 215-607-8; CAS 1333-82-0)[3] applied for by the members of the CTACSub Consortium, on the basis that the socio economic benefits of continued use outweigh the health and environmental risks thereof.[4]

Subsequently, the Commission was to develop proposed authorization decisions within three months for qualified majority approval by the REACH Committee consisting of Member States representatives. After approval by the REACH Committee, the Commission would then have to issue the authorization decisions. However, this procedure is now delayed[5] for almost 1.5 years.

Given the number of procedural steps still required within the Commission and with the REACH Committee thereafter, in view of the accumulated delay, adoption may now be expected for March 2019 earliest.

Question 2: **Do downstream users of chromium trioxide have to stop using the substance at the Sunset Date (September 21, 2017)?**
Response: NO. Article 58(1)(c)(ii) REACH provides that downstream users supplied directly or indirectly by one or more of the 7 applicants may continue their uses of chromium trioxide from those suppliers beyond the Sunset Date until the Commission will have decided on the authorizations.[6] Please note though

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[1] Members of the CTACSub Consortium are: Atotech Deutschland GmbH; Aviall Services Inc; Prospere Logistic Baltic OÜ (as legal successor to BONDEX TRADING LTD), in its legal capacity as Only Representative of Aktyubinsk Chromium Chemicals Plant, Kazakhstan; CROMITAL S.P.A. in its legal capacity as Only Representative of Soda Sanayii A.S.; Elementis Chromium LLP in its legal capacity as Only Representative of Elementis Chromium Inc.; Enthone GmbH (now MacDermid Enthone); LANXESS Deutschland GmbH in its legal capacity as Only Representative of LANXESS CISA (Pty) Ltd.

[2] For additional information, please contact the CTACSub Consortium Manager uschliessner@jonesday.com, tel. +32-2-6451460.

[3] Authorization consultations No. 0032-01 to 0032-06; see at https://echa.europa.eu/applications-for-authorisation-previous-consultations. RAC and SEAC have recommended the following review periods (to be counted as of September 21, 2017): Formulation of mixtures (0032-01) / Functional chrome plating (0032-02) / Surface treatment in the aeronautic and aerospace industry (0032-04) – all 7 years; Functional plating with decorative character (0032-03) / Surface treatment in other industries (0032-05) / Passivation of tin-plated steel (ETP) (0032-06) - all 4 years.

[4] For more information on the applications, see previous press release at www.jonesdayreach.com

[5] Pursuant to Article 64(8) REACH, the Commission is obliged to prepare its authorization Decision within three months after receipt of the RAC/SEAC opinions from ECHA. In the case of CTACSub, the Commission was therefore obliged to prepare its proposal for authorization decisions by December 2016 (RAC/SEAC issued their opinions on September 16, 2016). However, to date, the Commission has not finalized its work (at least Cabinet approval and interservice consultation are still outstanding) and has therefore not forwarded its proposed Decisions to the REACH Committee.

[6] https://echa.europa.eu/de/support/qas-support/qas/-/q-and-a/5a109f43-fc76-70f8-501b-64b5ec456d45?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fde%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3D1358%26_journalqasearch_WAR_journalqaportlet_formDate%3D1499779597651%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue

that such continued use is only permitted in as far as the uses are within the remit of the authorization applied for.

Question 3: How does the Commission calculate the review periods?

Response: The 'review period' is the time during which an authorization remains valid. If a use is intended to be continued beyond the 'review period', the applicant must file a 'review report' at the latest 18 months before the end of the review period. It is standing Commission practice for applications for authorization that were submitted before the Latest Application Date, such as CTACSub's applications, to calculate the 'review period' from the Sunset Date[7], regardless of how long the Commission is delayed with the processing of the applications for authorization.

Question 4: **How does a downstream user know or find out whether the chromium trioxide he uses originates (was supplied directly or indirectly by) from one or more of the 7 CTACSub applicants?**
Response: There are several possibilities. In case the substance (or mixture containing chromium trioxide) is supplied directly by the applicants, this is clear. The name of the applicants will be on the label, the safety data sheet and the invoices (except in cases of Only Representatives). In case the substance (or chromium trioxide in mixture) is supplied by distributors or formulators, the safety data sheets, labels and invoices may not contain this information. In this case, the downstream users should ask their individual suppliers to confirm in writing[8] that the chromium trioxide originates from one of the 7 applicants. The suppliers in turn may have to ask the same questions to their suppliers further upstream to trace the supply chain fully.

Question 5: **Article 66 REACH requires downstream users to notify[9] ECHA within three months of the first supply of a substance subject to authorization with the identity of the company, the authorization number and their contact information. Additional information can be submitted voluntarily or may be mandatory in the future. Is this obligation applicable to downstream users that receive chromium trioxide directly or indirectly from the 7 applicants?**
Response: NO. This obligation is not applicable as long as the authorization applications are still pending and have not been granted.[10] As long as there are no authorization decisions, there are no authorization numbers and therefore the notification template in its present form cannot be filled in and submitted to ECHA.

Question 6: **What does a downstream user do in case a customer wishes to have evidence that the downstream user is entitled to use chromium trioxide at its facility?**
Response: In case an authorization has been granted, the downstream user may provide his customer with a copy of his Article 66 downstream user notification that he submitted to ECHA. As long as the

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[7] https://echa.europa.eu/support/qas-support/qas/-/q-and-a/17855122-2830-ea0d-672c-5827f5176632?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3Dsunset%2Bdate%26_journalqasearch_WAR_journalqaportlet_formDate%3D1525684650197%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dfalse%26_journalqasearch_WAR_journalqaportlet_topic%3D%26_journalqasearch_WAR_journalqaportlet_from%3D%26_journalqasearch_WAR_journalqaportlet_to%3D%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_uniqueIds%3D

[8] The certification could be as follows: *„We, company X, hereby confirm that all chromium trioxide as a substance or in a preparation that we currently deliver and will in the future deliver to our customer Z, originates, directly or indirectly, from one or more of the 7 applicants for REACH authorization organized as CTACSub Consortium as per www.jonesdayreach.com. We hereby undertake to inform Z immediately and before the next delivery should this certification no longer be correct.*" Optional: *„We shall be held liable for any direct and/or indirect damages Z may suffer from any potential inaccuracy of our certification."*

[9] https://echa.europa.eu/support/dossier-submission-tools/reach-it/downstream-user-authorised-use

[10] https://echa.europa.eu/de/support/qas-support/qas/-/q-and-a/5a109f43-fc76-70f8-501b-64b5ec456d45?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fde%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3D1358%26_journalqasearch_WAR_journalqaportlet_formDate%3D1499779597651%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue

authorizations will not have been granted, the downstream user can only draw up a statement on his letterhead that *he is entitled to continue using chromium trioxide pursuant to the transitional regime set out in Article 58(1)(c)(ii) REACH as all chromium trioxide used at its facility is supplied directly or indirectly by one or more of the 7 CTACSub applicants and the use is within the scope and the limitations of the authorization applied for.* A copy of this Q&A may be attached to the downstream user statement.

Question 7: **What does a downstream user do in case of an inspection?**
Response: First, please note that the REACH Forum [11] has decided that compliance with REACH authorizations for chromates will be a priority of national enforcement in 2019. Downstream users should therefore expect an inspection at the latest in 2019. Several Member States (including France and the United Kingdom) started inspection campaigns already in 2017, immediately after the Sunset Date had passed.

In case of an inspection, the inspector will ask the downstream user for his Article 66 REACH notification. In this case, the downstream user will have to explain that the Article 66 REACH notification obligation is not yet applicable to him due to the authorization applications still pending, see above. In addition, the downstream user should be able to demonstrate that he is aware of the details of the applications for authorization applied for. He should be able to demonstrate and have documented by a self-assessment that his activity falls within the scope of the applications for authorization applied for and that he applies as a minimum the operational conditions and risk management measures described in the CTACSub application(s) for authorization. Moreover, he should demonstrate that he is compliant with national legislation on health & safety at the workplace, including occupational exposure limits, the obligation to make a safety assessment for each workplace and to observe the hierarchy of prevention measures for carcinogens at the workplace.

Question 8: **How does a downstream user know whether his activity falls within the scope of the CTACSub application for authorization? What does he need to do if this is not the case?**
Response: The only way to make this determination is by reviewing in depth the application documents available on the ECHA website,[12] in particular the so-called Broad Descriptions of Uses, the Analyses of Alternatives describing the uses and the Chemical Safety Reports. In case of doubt, he may seek external help from specialized consultants. If an activity is not described in an Exposure Scenario in the Chemical Safety Reports or if the actual operational conditions and risk management measures at the facility are not in line with the description in the Chemical Safety Reports, the downstream user cannot rely on the pending CTACSub applications for authorization. He is not covered. In such case, he should urgently submit his own application for authorization to ECHA and he should have stopped at the Sunset Date his use of chromium trioxide until he has obtained his own authorization. Alternatively, he can investigate whether his activity is covered by another authorization pending or granted – in which case he will have to change supplier for chromium trioxide.

Question 9: **Will there be any changes in the future that downstream users must be aware of in relation to the exposure scenarios, operational conditions and risk management measures set out in the CTACSub applications for authorizations?**
Response: YES. The RAC has recommended in its Opinions that the Commission set conditions in the authorization decisions (e.g. exposure measurements). As in the case of other authorization decisions, it is expected that such conditions will be set. These conditions must be observed by the downstream users. It is also possible that the applicants will in the future have to revise their exposure scenarios. Should this be the case, the information and new exposure scenarios will be available through updates in safety data sheets supplied with the chromium trioxide.

Question 10: **Is there any practical guidance available that downstream users can utilize to adapt their operating conditions from now on in expectation of the authorizations and in order to be considered as covered by the pending applications during the transitional period pursuant to Article 58 58(1)(c)(ii) REACH?**

[11] Article 86 REACH. Consisting of national inspectors. Responsible for coordination of enforcement across the EU. https://echa.europa.eu/-/more-enforcement-on-authorisation-and-registration-coming-up-for-2019
[12] https://echa.europa.eu/applications-for-authorisation-previous-consultations

Response: YES. CTACSub has developed and published[13] by the Sunset Date a series of easily comprehensible illustrative practical Task Sheets ('Good Practice Sheets') that set out the operational conditions and risk management measures that are recommended to be applied when handling chromium trioxide. The Good Practice Sheets also contain advice on personal protective equipment and exposure monitoring. Compliance with the Good Practice Sheets as of the Sunset Date is voluntary but is recommended in order for the downstream user to demonstrate coverage and compliance with the pending applications for authorization.

Question 11: Given the current delays of the Commission with the CTACSub application for authorization, what should downstream users do in order to gain more operational and legal certainty whether their use of chromium trioxide will be permitted in the future and for how long?

Response: CTACSub recommend that downstream users do the following:

(1) Strictly apply the Good Practice Sheets (these may also be shown in case of inspections);

(2) Conduct exposure and environmental monitoring as set out in the Good Practice Sheets;

(3) Get ready to potentially file downstream user applications for authorization with ECHA by the dates recommended in the below table.

Use No.	Use name*	Proposed review periods by CTACSub applicants***	Recommended review periods by RAC/SEAC	Recommended start of preparing DU AfA, assuming 1 year lead time is required	Recommended filing deadline for DU AfA*	End of review period based on RAC/SEAC recommendations**
1	**Formulation of mixtures**	12 years+	**7 years**	21.03.2021	21.3.2022	21.9.2024
2	**Functional chrome plating (Hard Chrome)**	12 years	**7 years**	21.03.2021	21.3.2022	21.9.2024
3	**Functional chrome plating with decorative character incl. Etching of plastics**	7 years	**4 years**	21.03.2018	21.3.2019	21.9.2021
4	**Surface treatment for applications in the aeronautics and aerospace industries, unrelated to Functional chrome plating or Functional plating with decorative character**	12 years	**7 years**	21.03.2021	21.3.2022	21.9.2024
5	**Surface treatment (except ETP) for applications in various industry sectors namely architectural, automotive, metal manufacturing**	7 years	**4 years**	21.03.2018	21.3.2019	21.9.2021

[13] See http://www.jonesdayreach.com/SitePages/Home.aspx

Use No.	Use name*	Proposed review periods by CTACSub applicants***	Recommended review periods by RAC/SEAC	Recommended start of preparing DU AfA, assuming 1 year lead time is required	Recommended filing deadline for DU AfA*	End of review period based on RAC/SEAC recommendations**
	and finishing, and general engineering					
6	**Passivation of tin-plated steel (ETP)**	4 years	**4 years**	21.03.2018	21.3.2019	21.9.2021

***30 months before expiry of recommended review period (according to the Commission, the average duration of the application procedure is 24 months). Please note that DUs, unlike previous applicants, are not protected by any transitional periods. If they do not have their own authorization by the end of the review period or are not covered by another granted authorization, they must stop the use.**
****Please note that often the Commission proposes shorter review periods than recommended by RAC/SEAC.**
***** Counting from Sunset date 21.09.2017.**

Deutsche Übersetzung

AKTUALISIERUNG

Fragen & Antworten

CTACSub Consortium[14] (CTAC Submission Consortium)

Anträge auf REACH Zulassung bestimmter Verwendungen von Chromtrioxid[15]
7. Mai 2018

Frage 1: **Was ist der derzeitige Stand der Zulassungsanträge?**
Antwort: Die ECHA Ausschüsse für Risikobeurteilung (RAC) und Sozioökonomische Analyse (SEAC) haben im September 2016 der Europäischen Kommission ('Kommission') empfohlen, die Zulassung für die Fortsetzung der von den Mitgliedern von CTACSub beantragten 6 Verwendungen von Chromtrioxid (EC 215-607-8; CAS 1333-82-0)[16] zu erteilen, weil der sozioökonomische Nutzen der Weiterverwendung den Gesundheits- und Umweltrisiken überwiegt.[17]

Danach oblag es der Kommission, ihre Vorschläge für die Zulassungsentscheidung innerhalb von 3 Monaten zur Weiterleitung an den REACH Ausschuss (bestehend aus Vertretern der Mitgliedstaaten) für dessen Annahme mit qualifizierter Mehrheit zu erarbeiten. Danach würde die Kommission dann automatisch die Zulassung verabschieden. Leider ist dieses Verfahren nun fast 1.5 Jahre verspätetet.[18]

Angesichts der Zahl der noch innerhalb der Kommission und des REACH Ausschusses ausstehenden prozeduralen Schritte und angesichts der bereits aufgelaufenen Verspätungen, kann mit einer Verabschiedung nun frühestens im März 2019 gerechnet werden.

Frage 2: **Müssen nachgeschaltete Anwender die Verwendung von Chromtrioxid am Sunset Date (22.09. 2017) einstellen?**
Antwort: NEIN. Artikel 58(1)(c)(ii) REACH legt fest, dass nachgeschaltete Anwender, die direkt oder indirekt von einem oder mehreren der 7 Antragsteller beliefert werden, ihre Verwendungen von diesem gelieferten Chromtrioxid über das Sunset Date hinaus bis zur Entscheidung der Kommission fortsetzen können.[19] Bitte beachten Sie jedoch, dass solche Verwendungen nur dann und insoweit erlaubt sind, als sie sich im Anwendungsbereich der gestellten Zulassungsanträge befinden.

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[14] Die Mitglieder des CTACSub Consortium sind wie folgt: Atotech Deutschland GmbH; Aviall Services Inc; Prospere Logistic Baltic OÜ als Rechtsnachfolger von BONDEX TRADING LTD in its legal capacity as Only Representative of Aktyubinsk Chromium Chemicals Plant, Kazakhstan; CROMITAL S.P.A in its legal capacity as Only Representative of Soda Sanayii A.S.; Elementis Chromium LLP in its legal capacity as Only Representative of Elementis Chromium Inc.; Enthone GmbH; LANXESS Deutschland GmbH in its legal capacity as Only Representative of LANXESS CISA (Pty) Ltd.

[15] Für zusätzliche Informationen richten Sie bitte Ihre Anfragen an den CTACSub Konsortialmanager uschliessner@jonesday.com, tel. +32-2-6451460.

[16] Authorization consultations No. 0032-01 to 0032-06; siehe https://echa.europa.eu/de/applications-for-authorisation-previous-consultations. RAC and SEAC haben die folgenden Überprüfungszeiträume empfohlen (Frist läuft ab 21. September 2017): Herstellung von Mischungen (0032-01) / Funktionelle (Hart) Verchromung (0032-02) / Oberflächenbehandlung in der Luft- und Raumfahrtindustrie (0032-04) – alle 7 Jahre; Funktionelle Verchromung mit dekorativem Charakter (0032-03) / Oberflächenbehandlung in anderen Industrien (0032-05) / Passivierung von Zinn beschichtetem Stahl (ETP) (0032-06) - alle 4 Jahre.

[17] Siehe auch frühere Pressemitteilungen www.jonesdayreach.com

[18] Gemäß Artikel 64(8) REACH ist die Kommission verpflichtet, ihre Zulassungsentscheidungen innerhalb von 3 Monaten nach Erhalt der RAC/SEAC Empfehlungen von der ECHA zu erarbeiten. Im Fall von CTACSub war die Kommission daher verpflichtet, ihre Vorschlage für die Zulassungsentscheidungen bis Dezember 2016 zu erarbeiten (die RAC/SEAC Empfehlungen wurden am 16. September 2016 ausgesprochen). Bis heute jedoch hat die Kommission ihre Arbeit nicht abgeschlossen. Mindestens die Zustimmung der Kabinette der Kommissare wie auch die sog. Interservice Konsultation innerhalb der Kommission stehen noch aus. Daher sind die Vorschläge auch noch nicht dem REACH Ausschuss zur Entscheidung vorgelegt worden.

[19] https://echa.europa.eu/de/support/qas-support/qas/-/q-and-a/5a109f43-fc76-70f8-501b-64b5ec456d45?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fde%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3D1358%26_journa

Frage 3: Wie berechnet die Kommission die Überprüfungszeiträume?
Antwort: Der ‚Überprüfungszeitraum' ist die Zeitspanne während derer eine Zulassung gültig ist. Wenn eine Verwendung über den ‚Überprüfungszeitraum' hinaus fortgesetzt werden soll, muss der Antragsteller mindestens 18 Monate vor Ende des Überprüfungszeitraums einen ‚Überprüfungsbericht' einreichen. Es ist gängige Praxis der Kommission für Anträge die vor dem letzten Antragsdatum eingereicht wurden, so z.B. bei CTACSub, dass der ‚Überprüfungszeitraum vom ‚Sunset Date'[20] ausgehend berechnet wird, egal wie verspätet die Kommission mit ihrem Entscheidungsverfahren ist.

Frage 4: **Wie kann ein nachgeschalteter Anwender feststellen, ob das von ihm verwendete Chromtrioxid direkt oder indirekt von einem oder mehreren der 7 CTACSub Antragsteller stammt?**
Antwort: Es gibt mehrere Möglichkeiten, dies festzustellen. Für den Fall, dass der Stoff (oder die Mischung die den Stoff enthält) direkt von den Antragstellern geliefert wird, ist die Sache klar. Die Firma des Antragstellers wird auf dem Etikett, den Sicherheitsdatenblättern und den Rechnungen vermerkt sein (außer im Fall von Alleinvertretern). Für den Fall, dass der Stoff (oder die Mischung die den Stoff enthält) von Händlern oder Formulierern geliefert wird, enthalten die Sicherheitsblätter, Etiketten und Rechnungen diese Informationen unter Umständen nicht. In diesem Fall sollte der nachgeschaltete Anwender seine einzelnen Lieferanten darum bitten, schriftlich zu bestätigen[21], dass das gelieferte Chromtrioxid von einem der 7 Antragsteller stammt. Die Lieferanten wiederum müssten gegebenenfalls die gleichen Fragen an ihre Lieferanten weiter oben in der Lieferkette stellen, so dass die Lieferkette vollständig verfolgt werden kann.

Frage 5: **Artikel 66 REACH verlangt von den nachgeschalteten Anwendern, dass sie der ECHA innerhalb von drei Monaten nach der ersten Lieferung eines von der Zulassung umfassten Stoffes elektronisch die Firma, die Zulassungsnummer und ihre Kontaktdaten mitteilen.[22] Zusätzliche Informationen können freiwillig mitgeteilt werden oder könnten in der Zukunft Pflicht werden. Gilt diese Mitteilungspflicht auch für nachgeschaltete Anwender, die direkt oder indirekt von den 7 Antragstellern beliefert werden?**
Antwort: NEIN. Diese Verpflichtung gilt so lange nicht, wie die Zulassungsanträge noch anhängig und noch nicht entschieden sind.[23] Solange keine Zulassungsentscheidungen ergangen sind, gibt es keine Zulassungsnummern und die elektronische Mitteilung kann daher in ihrer derzeitigen Form weder ausgefüllt noch an ECHA übermittelt werden.

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[20] https://echa.europa.eu/support/qas-support/qas/-/q-and-a/17855122-2830-ea0d-672c-5827f5176632?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3Dsunset%2Bdate%26_journalqasearch_WAR_journalqaportlet_formDate%3D1525684650197%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dfalse%26_journalqasearch_WAR_journalqaportlet_topic%3D%26_journalqasearch_WAR_journalqaportlet_from%3D%26_journalqasearch_WAR_journalqaportlet_to%3D%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_uniqueIds%3D

[21] Diese Bestätigung könnte folgendermaßen lauten: *„Wir, Firma X, bestätigen hiermit, dass die gesamte Menge Chromtrioxid als Stoff oder in einer Mischung, die wir zur Zeit und in der Zukunft an unsere Kundin Z liefern, direkt oder indirekt von einem der 7 CTACSub REACH Zulassung Antragsteller stammt, die als CTACSub Consortium organisiert sind, siehe www.jonesdayreach.com. Wir verpflichten uns hiermit, Z sofort und vor der nächsten Lieferung zu informieren, sollte diese Bestätigung nicht mehr korrekt sein."* Optional: *„Wir unterwerfen uns der Haftung für jedwede direkten oder indirekten Schäden, die Z aufgrund einer potentiellen Fehlerhaftigkeit unser Bestätigung erleiden kann."*

[22] https://echa.europa.eu/support/dossier-submission-tools/reach-it/downstream-user-authorised-use

[23] https://echa.europa.eu/de/support/qas-support/qas/-/q-and-a/5a109f43-fc76-70f8-501b-64b5ec456d45?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fde%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3D1358%26_journalqasearch_WAR_journalqaportlet_formDate%3D1499779597651%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue

Frage 6: **Was sollte ein nachgeschalteter Anwender tun für den Fall, dass sein Kunde Beweise dafür haben möchte, dass der nachgeschaltete Anwender berechtigt ist, in seinem Betrieb Chromtrioxid zu verwenden?**
Antwort: Im Fall, dass die Zulassung ergangen ist, kann der nachgeschaltete Anwender seinem Kunden eine Kopie der an ECHA übermittelten Mitteilung nach Artikel 66 schicken. Solange die Zulassungen nicht erteilt wurden, kann der nachgeschaltete Anwender nur auf seinem Briefkopf eine Erklärung abgeben, etwa, dass *er berechtigt ist, die Verwendung von Chromtrioxid gemäß der Übergangsvorschrift des Artikels 58(1)(c)(ii) REACH fortzusetzen, weil sein gesamtes im Betrieb genutztes Chromtrioxid direkt oder indirekt von einem oder mehreren der 7 CTACSub Antragsteller stammt, und die Verwendung sich im Anwendungsbereich und den Anwendungsbedingungen der Zulassungsanträge befindet.* Eine Kopie dieser Fragen & Antworten könnte dieser Erklärung angehängt werden.

Frage 7: **Was macht der nachgeschaltete Anwender im Falle einer Inspektion der Behörden?**
Antwort: Zunächst möchten wir Sie darauf hinweisen, dass das REACH Forum[24] entschieden hat, dass die Vereinbarkeit mit REACH Zulassungen von den nationalen Behörden 2019 prioritär geprüft werden soll. Die nachgeschalteten Anwender sollten daher spätestens 2019 Kontrollen erwarten. Einige Mitgliedstaaten (einschließlich Frankreich und Groß-Britannien) haben Kontrollreihen bereits 2017 unmittelbar nach Ablauf des Sunset Datums durchgeführt. Im Falle einer Inspektion wird der Vollzugsbeamte den nachgeschalteten Anwender nach seiner Mitteilung gemäß Artikel 66 REACH fragen. Der nachgeschaltete Anwender sollte dann erklären, dass die Verpflichtung der Mitteilung nach Artikel 66 noch nicht für ihn gilt, weil die ihn betreffenden

Zulassungsanträge noch anhängig sind. Zusätzlich sollte der nachgeschaltete Anwender in der Lage sein, zu erklären und schriftlich nachzuweisen, dass er eine Eigenbewertung durchgeführt hat, dass seine Nutzung in den Anwendungsbereich der gestellten Zulassungsanträge fällt, und dass er mindestens die in den CTACSub Anträgen beschriebenen Risikominimierungsmaßnahmen und operationellen Bedingungen einhält. Darüber hinaus sollte er in der Lage sein, zu beweisen, dass er die nationale Gesetzgebung zum Arbeitsschutz, einschließlich der Arbeitsplatzgrenzwerte, der Verpflichtung eine Sicherheitsbewertung für jeden Arbeitsplatz durchzuführen, und der Beachtung der Hierarchie der Schutzmaßnahmen für krebserzeugende Stoffe am Arbeitsplatz einhält.

Frage 8: **Wie kann der nachgeschaltete Anwender herausfinden, ob seine Anwendung in den Anwendungsbereich der CTACSub Zulassungsanträge fällt? Was muss er tun, wenn das nicht der Fall ist?**
Antwort: Die einzige Möglichkeit, diese Bewertung durchzuführen, liegt in einer umfassenden Prüfung der Zulassungsanträge, die auf der ECHA Webseite sind,[25] insbesondere die sogenannte 'Broad Descriptions of Uses', die Analyse der Alternativen, die die Verwendungen beschreiben, und die Stoffsicherheitsberichte. Wenn Zweifel bestehen, kann er nachgeschaltete Anwender externe Dienstleistungen bei spezialisierten Beratern anfragen. Wenn eine Tätigkeit nicht in einem Expositionsszenarium in den Stoffsicherheitsberichten beschrieben ist, oder die tatsächlichen operationellen Bedingungen und Risikominimierungsmaßnahmen im Betrieb nicht mit den Beschreibungen in den Stoffsicherheitsberichten übereinstimmen, dann kann der nachgeschaltete Anwender sich nicht auf die anhängigen CTACSub Zulassungsanträge berufen. Er ist dann nicht von den Anträgen abgedeckt. In einem solchen Fall sollte er umgehend seinen eigenen Antrag auf Zulassung bei der ECHA stellen, und er musste am Sunset Datum seine Verwendung von Chromtrioxid einstellen bis er seine eigene Zulassung erhalten hat. Alternativ dazu könnte er nachforschen, ob seine Verwendung von einem anderen erteilten oder anhängigen Zulassungsantrag umfasst ist, er muss dann aber den Lieferanten für Chromtrioxid wechseln.

Frage 9: **Wird es in der Zukunft Änderungen der in den CTACSub Anträgen beschriebenen Expositionsszenarien, operationellen Bedingungen und Risikominimierungsmaßnahmen geben, die der nachgeschaltetete Anwender kennen muss?**

[24] Artikel 86 REACH. Besteht aus den nationalen Inspektoren. Verantwortlich für die Koordination der Durchsetzung innerhalb der EU. https://echa.europa.eu/-/more-enforcement-on-authorisation-and-registration-coming-up-for-2019
[25] https://echa.europa.eu/de/applications-for-authorisation-previous-consultations

Antwort: JA. RAC hat empfohlen, dass die Kommission Bedingungen in ihre Zulassungsentscheidungen aufnimmt (zum Beispiel Messungen der Exposition am Arbeitsplatz). So wie in anderen Zulassungsentscheidungen auch, muss davon ausgegangen werden, dass solche Bedingungen in der Tat vorgeschrieben werden. Diese Bedingungen sind von den nachgeschalteten Anwendern einzuhalten. Es ist auch möglich, dass die Antragsteller verpflichtet werden, für die Zukunft ihre Expositionsszenarien zu ändern. Wenn dies eintritt, werden die Informationen und die neuen Expositionsszenarien mittels Aktualisierung der mit dem Chromtrioxid gelieferten Sicherheitsdatenblätter zur Verfügung gestellt werden.

Frage 10: **Gibt es praktische Hilfestellungen, die die nachgeschalteten Anwender nutzen können, um ihre operationellen Bedingungen von jetzt an und in Erwartung der Zulassungen anzupassen, und um vom Anwendungsbereich der anhängigen Zulassungsanträge gemäß des Übergangszeitraums nach Artikel 58 58(1)(c)(ii) REACH umfasst zu sein?**
Antwort: JA. CTACSub hat zum Sunset Datum eine Serie von leicht verständlichen illustrativen Tätigkeitsbeschreibungen ('Good Practice Sheets') entwickelt und veröffentlicht, die die operationellen Bedingungen und Risikominimierungsmaßnahmen aufführen, die von den Antragstellern bei der Verwendung von Chromtrioxid empfohlen werden. Diese Good Practice Sheets enthalten auch Hilfestellung zu persönlicher Schutzausrüstung und Expositionsmessungen. Die Einhaltung der Good Practice Sheets ab dem Sunset Date ist freiwillig, wird aber empfohlen, damit die nachgeschalteten Anwender nachweisen können, dass sie von den anhängigen Zulassungsanträgen umfasst und mit ihnen im Einklang sind.

Frage 11: In Anbetracht der derzeitigen Verspätung der Kommission mit den CTACSub Zulassungsanträgen, was sollten die nachgeschalteten Anwender tun, um mehr operationelle und rechtliche Sicherheit zu haben, ob ihre Verwendung von Chromtrioxid in der Zukunft und für wie lange zulässig ist?

Antwort: CTACSub empfiehlt den nachgeschalteten Anwendern folgendes:

(1) Strikte Befolgung der der Good Practice Sheets;

(2) Durchführung von Expositionsmessungen am Arbeitsplatz und Umweltmessungen nach den Empfehlungen in den Good Practice Sheets;

(3) Vorbereitungen zu treffen, um eventuell als nachgeschalteter Anwender bei ECHA einen Antrag auf Zulassung der Verwendung zu stellen, zu den unten in der Tabelle genannten Zeitpunkten.

Verwendung No.	**Titel der Verwendung***	**Überprüfungszeitraum, der von den CTACSub Antragstellern vorgeschlagen worden war*****	**Empfohlener Überprüfungszeitraum, RAC / SEAC**	**Vorgeschlagenes Datum, um eigenen Zulassungsantrag vorzubereiten, mit der Annahme dass ca. 1 Jahr Vorbereitung nötig ist.**	**Vorgeschlagenes Datum, zu dem Zulassungsantrag eingereicht werden sollte ***	**Ende des Überprüfungszeitraums (basierend auf RAC/SEAC Empfehlung)****
1	**Formulation of mixtures**	12 Jahre+	**7 Jahre**	21.03.2021	21.3.2022	21.9.2024
2	**Functional chrome plating (Hard Chrome)**	12 Jahre	**7 Jahre**	21.03.2021	21.3.2022	21.9.2024

Verwendung No.	Titel der Verwendung*	Überprüfungszeitraum, der von den CTACSub Antragstellern vorgeschlagen worden war***	Empfohlener Überprüfungszeitraum, RAC / SEAC	Vorgeschlagenes Datum, um eigenen Zulassungsantrag vorzubereiten, mit der Annahme dass ca. 1 Jahr Vorbereitung nötig ist.	Vorgeschlagenes Datum, zu dem Zulassungsantrag eingereicht werden sollte *	Ende des Überprüfungszeitraums (basierend auf RAC/SEAC Empfehlung)**
3	**Functional chrome plating with decorative character incl. Etching of plastics**	7 Jahre	**4 Jahre**	21.03.2018	21.3.2019	21.9.2021
4	**Surface treatment for applications in the aeronautics and aerospace industries, unrelated to Functional chrome plating or Functional plating with decorative character**	12 Jahre	**7 Jahre**	21.03.2021	21.3.2022	21.9.2024
5	**Surface treatment (except ETP) for applications in various industry sectors namely architectural, automotive, metal manufacturing and finishing, and general engineering**	7 Jahre	**4 Jahre**	21.03.2018	21.3.2019	21.9.2021

Verwendung No.	Titel der Verwendung*	Überprüfungszeitraum, der von den CTACSub Antragstellern vorgeschlagen worden war***	Empfohlener Überprüfungszeitraum, RAC / SEAC	Vorgeschlagenes Datum, um eigenen Zulassungsantrag vorzubereiten, mit der Annahme dass ca. 1 Jahr Vorbereitung nötig ist.	Vorgeschlagenes Datum, zu dem Zulassungsantrag eingereicht werden sollte *	Ende des Überprüfungszeitraums (basierend auf RAC/SEAC Empfehlung)**
6	**Passivation of tin-plated steel (ETP)**	4 Jahre	**4 Jahre**	21.03.2018	21.3.2019	21.9.2021

***30 Monate vor Ablauf des empfohlenen Überprüfungszeitraums (laut Kommission beträgt die durchschnittliche Verfahrensdauer 24 Monate). Bitte beachten Sie, dass nachgeschaltete Anwender, im Gegensatz zu den vorherigen Antragstellern, nicht von einer Übergangsfrist profitieren können. Wenn die nachgeschalteten Anwender keine eigene Zulassung zum Ablauf des Überprüfungszeitraums erhalten haben oder nicht von einer anderen Zulassung umfasst sind, müssen sie die Verwendung aufgeben.**
**** Bitte beachten Sie, dass die von der Kommission vorgeschlagenen Überprüfungszeiträume oft kürzer sind als von RAC/SEAC vorgeschlagen.**
***** Vom Sunset Datum 21.09.2017 an berechnet.**

MISE À JOUR

Traduction Française

Questions & Réponses

CTACSub Consortium[26] (CTAC Submission Consortium)

Les demandes d'autorisation REACH pour l'utilisation de trioxyde de chrome[27]

Le 9 mai 2018

Question 1: Quel est le statut de ces demandes d'autorisation ?
Réponse: Les Comités de l'ECHA pour l'Évaluation des Risques (RAC) et pour l'Analyse Socio-Économique (SEAC) ont recommandé en septembre 2016 que la Commission européenne ('Commission') accorde les autorisations de poursuite des six utilisations de trioxyde de chrome (EC 215-607-8; CAS 1333-82-0)[28] demandées par les membres du CTACSub Consortium, en raison de bénéfices socio-économiques, lors d'une utilisation continue, supérieurs aux risques pour la santé et l'environnement.[29]

Partant, la Commission devait élaborer ses propositions d'autorisation dans un délai de trois mois en vue de leur adoption à la majorité qualifiée par le Comité REACH (composé de représentants des Etats membres). Après l'approbation du Comité REACH, la Commission devait décider automatiquement de l'octroi des autorisations. Cependant cette procédure a déjà pris un retard de près d'un an et demi.[30]

Au regard du nombre d'étapes de procédure restantes au sein de la Commission et du Comité REACH, ainsi que du retard accumulé, l'adoption est maintenant attendue pour mars 2019 au plus tôt.

Question 2: Est-ce que les utilisateurs en aval de trioxyde de chrome doivent cesser l'utilisation de la substance une fois la date d'expiration atteinte (21 septembre 2017)?
Réponse:
NON. L'article 58(1)(c)(ii) du règlement REACH dispose que les utilisateurs en aval, approvisionnés directement ou indirectement par l'un ou plusieurs des sept demandeurs, peuvent poursuivre leurs utilisations au-delà de la date d'expiration jusqu'à ce que la Commission ait statué sur les autorisations.[31]

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[26] Les Membres du CTACSub Consortium sont les suivants : Atotech Deutschland GmbH; Aviall Services Inc; Prospere Logistic Baltic OÜ qui est le successeur légal de BONDEX TRADING LTD in its legal capacity as Only Representative of Aktyubinsk Chromium Chemicals Plant, Kazakhstan; CROMITAL S.P.A in its legal capacity as Only Representative of Soda Sanayii A.S.; Elementis Chromium LLP in its legal capacity as Only Representative of Elementis Chromium Inc.; Enthone GmbH; LANXESS Deutschland GmbH in its legal capacity as Only Representative of LANXESS CISA (Pty) Ltd.

[27] Pour plus d'informations, contactez la gestionnaire du Consortium CTACSub uschliessner@jonesday.com, tel. +32-2-6451460.

[28] Consultation des autorisations No. 0032-01 to 0032-06 ; voir https://echa.europa.eu/applications-for-authorisation-previous-consultations. Les comités RAC et SEAC ont recommandé les périodes de révision suivantes (à partir du 21 septembre 2017) : Formulation de mélanges (0032-01) / Chromage fonctionnel (chromage dur) (0032-02) / Traitement de surface dans l'industrie aéronautique et aérospatiale (0032-04) – 7 ans pour toutes; Chromage fonctionnal à caractère decorative (0032-03) / Traitement de surface dans d'autres industries (0032-05) / Passivation de l'acier étamé (ETP) (0032-06) – 4 ans pour toutes.

[29] Pour plus d'informations à ce propos, voir les précédents communiqués de presse sur le site www.jonesdayreach.com.

[30] En vertu de l'article 64(8) REACH, La Commission élabore un projet de décision d'autorisation dans les trois mois suivant la réception des avis de l'Agence (RAC/SEAC). Dans le cas de CTACSub, la Commission était donc dans l'obligation de préparer ses propositions d'autorisation pour le mois de décembre 2016 (RAC/SEAC ont formulé leurs avis le 16 septembre 2016). A ce jour, la Commission n'a cependant pas achevé ses travaux (du moins, l'approbation des Cabinets et la consultation interservices sont toujours en suspens) et a n'a par conséquent pas transféré sa proposition de décision au Comité REACH.

[31] https://echa.europa.eu/de/support/qas-support/qas/-/q-and-a/5a109f43-fc76-70f8-501b-64b5ec456d45?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fde%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3D1358%26_journalqasearch_WAR_journalqaportlet_formDate%3D1499779597651%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue

Veuillez toutefois noter que cette utilisation continue n'est permise que dans la mesure où les utilisations relèvent du cadre de l'autorisation demandée.

Question 3 : Comment la Commission calcule-t-elle les périodes d'examen ?
Réponse : La « période d'examen » est la période durant laquelle une autorisation reste valide. Si l'utilisation attendue continue au-delà de cette « période d'examen », le demandeur doit faire un rapport au plus tard dix-huit mois avant la fin de la période d'examen. La pratique constante de la Commission est la suivante, pour les demandes d'autorisation soumises avant la date limite pour l'introduction de la demande, comme pour la demande de CTACSub, de calculer la « période d'examen » à partir de la date d'expiration[32], indépendamment du retard pris par la Commission dans le traitement des demandes d'autorisation.

Question 4: Comment un utilisateur en aval peut-il savoir si le trioxyde de chrome qu'il utilise est approvisionné (directement ou indirectement) par l'un ou plusieurs des sept demandeurs du Consortium CTACSub?
Réponse : Il existe différentes possibilités. Dans le cas où la substance (ou un mélange contenant du trioxyde de chrome) est directement approvisionnée par l'un des demandeurs, c'est évident. Le nom des demandeurs sera inscrit sur l'étiquette, sur la fiche de données de sécurité et sur la facture (à l'exception des représentants exclusifs). Lorsque la substance (ou le mélange contenant le trioxyde de chrome) est approvisionnée par des distributeurs ou formulateurs, la fiche de données de sécurité, l'étiquette et la facture pourraient ne pas mentionner une telle information. Dans ce cas, il est conseillé aux utilisateurs en aval de demander à leurs fournisseurs personnels de confirmer par écrit[33] que le trioxyde de chrome provient de l'un des sept demandeurs. Les fournisseurs devront peut-être à leur tour poser cette même question à leurs fournisseurs en amont ce qui permettra de retracer l'ensemble de la chaîne d'approvisionnement.

Question 5: L'article 66 du règlement REACH impose aux utilisateurs en aval d'adresser une notification[34] à l'ECHA dans les trois mois suivant la première livraison de la substance sujette à une autorisation avec l'identité de la compagnie, le numéro d'autorisation et leurs coordonnées. Des informations additionnelles peuvent être soumises volontairement ou peuvent devenir obligatoires dans le futur. Est-ce que cette obligation s'applique aux utilisateurs en aval qui reçoivent directement ou indirectement du trioxyde de chrome des sept demandeurs?
Réponse: NON. Cette obligation n'est pas d'application tant que les demandes d'autorisation sont pendantes et que ces dernières n'ont pas été octroyées.[35] Tant qu'il n'y pas de décision d'autorisation, il n'y a pas de numéro d'autorisation et donc le formulaire de notification ne peut être rempli et envoyé à l'ECHA.

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[32] https://echa.europa.eu/support/qas-support/qas/-/q-and-a/17855122-2830-ea0d-672c-5827f5176632?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3Dsunset%2Bdate%26_journalqasearch_WAR_journalqaportlet_formDate%3D1525684650197%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dfalse%26_journalqasearch_WAR_journalqaportlet_topic%3D%26_journalqasearch_WAR_journalqaportlet_from%3D%26_journalqasearch_WAR_journalqaportlet_to%3D%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_uniqueIds%3D

[33] L'attestation pourrait être rédigée comme suit: « *Nous, compagnie X, certifions par la présente que le trioxyde de chrome, comme substance ou contenu dans un mélange, que nous délivrons actuellement et que nous délivrerons dans le futur à notre client Z, provient, directement ou indirectement, de l'un ou plusieurs des sept demandeurs d'autorisations REACH organisés sous la dénomination de Consortium CTACSub par www.jonesdayreach.com. Nous nous engageons également par la présente à informer notre client Z immédiatement, et ce, avant la prochaine livraison si l'advenait que cette attestation ne soit plus correcte* ». Optionnel : « *Nous serons tenus pour responsables de tout dommage direct et/ou indirect que notre client Z pourrait subir de l'éventuelle inexactitude de notre attestation* ».

[34] https://echa.europa.eu/support/dossier-submission-tools/reach-it/downstream-user-authorised-use

[35] https://echa.europa.eu/de/support/qas-support/qas/-/q-and-a/5a109f43-fc76-70f8-501b-64b5ec456d45?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fde%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3D1358%26_journalqasearch_WAR_journalqaportlet_formDate%3D1499779597651%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue

Question 6: Que doit faire un utilisateur en aval si l'un de ses clients souhaite avoir la preuve que l'utilisateur en aval est en droit d'utiliser du trioxyde de chrome dans ses établissements?
Réponse: Dans les cas où une autorisation a été accordée, l'utilisateur en aval pourra fournir au client une copie de la notification qu'il a envoyé à l'ECHA en vertu de l'article 66 du règlement REACH. Dans les cas où les autorisations ne lui auraient pas encore été octroyées, l'utilisateur en aval ne pourra que mentionner sur son papier à en-tête qu'*il est en droit de poursuivre son utilisation de trioxyde de chrome conformément au régime provisoire prévu à l'article 58(1)(c)(ii) du règlement REACH sachant que tout le trioxyde de chrome utilisé au sein de ses établissements est fourni directement ou indirectement par l'un ou plusieurs des sept CTACSub demandeurs et que l'utilisation qui en est fait relève du cadre de l'autorisation demandée.* Une copie de ce « Questions & Réponses » peut être jointe à la déclaration de l'utilisateur en aval.

Question 7: Que doit faire un utilisateur en aval en cas d'inspection?
Réponse: En premier lieu, veuillez noter que le forum REACH[36] a décidé que la conformité avec les autorisations REACH devra être contrôlée en priorité en 2019 par les autorités nationales. Les utilisateurs en aval devraient s'attendre à des contrôles en 2019 au plus tard. Certains Etats membres (y compris la France et le Royaume-Uni) ont déjà mené des campagnes de contrôles en 2017, immédiatement après la date d'expiration.

En cas d'inspection, l'inspecteur demandera à l'utilisateur en aval de lui montrer la notification prévue à l'article 66 du règlement REACH. Dans ce cas, ce dernier devra alors expliquer que l'obligation de notification découlant de l'article 66 ne lui est pas encore applicable du fait que sa demande d'autorisation est toujours pendante (*voy. supra*). En outre, l'utilisateur en aval doit être en mesure de démontrer qu'il a connaissance des détails des demandes d'autorisation. Il doit par ailleurs pouvoir expliquer et démontrer par écrit qu'il a procédé à une auto-évaluation pour s'assurer que son activité relève du cadre de la demande d'autorisation en cours et qu'il applique au minimum les conditions opérationnelles et les mesures de gestion de risque décrites dans la(les) demande(s) d'autorisation du CTACSub. De plus, il doit pouvoir démontrer qu'il se conforme à toutes les lois nationales en matière de santé et sécurité au travail, en ce compris les valeurs limites d'exposition professionnelle, l'obligation de procéder à une évaluation de la sécurité pour chaque lieu de travail et l'obligation de respecter la hiérarchie des mesures préventives pour les substances cancérogènes sur le lieu de travail.

Question 8: Comment un utilisateur en aval sait-il si son activité relève de la demande d'autorisation du CTACSub? Que doit-il faire si ce n'est pas le cas?
Réponse:
Le seul moyen de le savoir est de procéder à un examen approfondi des documents d'application disponibles sur le site Web de l'ECHA[37], en particulier les «Broad Descriptions of Use », les analyses des solutions de remplacement décrivant les utilisations et les rapports sur la sécurité chimique. En cas de doute, l'utilisateur en aval peut faire appel à des consultants spécialisés. Si une activité n'est pas décrite dans les scénarios d'exposition des rapports de sécurité chimique ou si les conditions opérationnelles actuelles et les mesures de gestion de risque dans l'établissement ne concordent pas avec la description des rapports de sécurité chimique, l'utilisateur en aval ne pourra pas s'appuyer sur les demandes d'autorisation pendantes du CTACSub. Il n'est donc pas couvert. Dans un tel cas, il devra soumettre d'urgence sa propre demande d'autorisation à l'ECHA et il devra avoir cessé d'utiliser du trioxyde de chrome à la date d'expiration et ce, jusqu'à ce qu'il obtienne sa propre autorisation. Une autre possibilité serait pour l'utilisateur en aval d'examiner si son activité est couverte par une autre demande d'autorisation pendante ou obtenue – et si tel est le cas, il devra changer de fournisseur de trioxyde de chrome.

Question 9: Y aura-t-il certains changements des scénarios d'exposition, des conditions opérationnelles et des mesures de gestion de risque énoncés dans les demandes d'autorisation du CTACSub dans le futur que les utilisateurs en aval doivent savoir?

[36] Article 86 REACH. Composé d'inspecteurs nationaux. Responsables de la coordination et de l'application des règles au sein de l'UE. https://echa.europa.eu/-/more-enforcement-on-authorisation-and-registration-coming-up-for-2019
[37] https://echa.europa.eu/applications-for-authorisation-previous-consultations

Réponse : OUI. Le comité d'évaluation des risques (RAC) a recommandé que la Commission mette en place certaines conditions pour les demandes d'autorisation (par exemple, mesurer le degré d'exposition). Comme pour d'autres décisions d'autorisation, on peut s'attendre à ce que ces conditions soient mises en place et devront donc être observées par les utilisateurs en aval. Il est également possible que les demandeurs auront à réviser leurs scénarios d'exposition dans le futur. Si tel est le cas, l'information et les nouveaux scénarios seront mis à disposition via les mises à jour des fiches de données de sécurité fournies avec le trioxyde de chrome.

Question 10: Existe-t-il des guides pratiques disponibles qui permettent aux utilisateurs en aval d'adapter leurs conditions d'exploitation dès à présent en attendant les autorisations et de s'assurer d'être couvert par le régime transitoire en cas de demande pendante prévu par l'article 58 (1)(c)(ii) du règlement REACH?

Réponse: OUI. Le Consortium CTACSub a développé et publié avant la date d'expiration, une série de fiches de bonnes pratiques ('Task Sheets' / 'Good Practice Sheets') qui illustreront sous une forme facilement compréhensible les mesures de gestion des risques et les conditions opérationnelles recommandées aux utilisateurs en aval lorsque ceux-ci utilisent du trioxyde de chrome. Ces fiches de bonnes pratiques contiendront également des conseils en matière d'équipement de protection individuelle et de contrôle de l'exposition. La conformité à ces fiches de bonnes pratiques à la date d'expiration est facultative mais recommandée afin de permettre aux utilisateurs en aval de prouver qu'ils sont couverts par (et en conformité avec) les demandes d'autorisation toujours pendantes.

Question 11: Au regard des retards de la Commission en ce qui concerne le traitement de la demande d'autorisation soumise par CTACSub, que doivent faire les utilisateurs en aval afin de gagner en sécurité opérationnelle et juridique, quant à la durée d'autorisation ou l'autorisation future de leur emploi du trioxyde de chrome ?

Réponse: CTACSub recommande aux utilisateurs en aval de procéder comme suit :

(1) Appliquer strictement les fiches de bonne pratiques (ces fiches peuvent également être montrées en cas d'inspections) ;
(2) Entreprendre des contrôles des expositions et de l'environnement, tel qu'indiqué dans les fiches de bonnes pratiques ;
(3) Etre prêt à potentiellement déposer une demande d'utilisateur en aval pour une autorisation auprès de l'ECHA dans les délais recommandées dans le tableau ci-dessous.

Usage No.	Nom de l'usage*	Périodes d'examen proposées par les demandeurs de CTACSub ***	Périodes d'examen recommandées par RAC/SEAC	Date recommandée pour débuter la préparation d'une demande individuelle d'autorisation, en supposant qu'un délai d'un an est requis	Date de dépôt recommandée pour la demande d'autorisation*	Fin de la période d'examen sur la base des recommandations du RAC/SEAC **
1	**Formulation of mixtures**	12 ans+	**7 ans**	21.03.2021	21.3.2022	21.9.2024
2	**Functional chrome plating (Hard Chrome)**	12 ans	**7 ans**	21.03.2021	21.3.2022	21.9.2024
3	**Functional chrome plating with decorative character incl. Etching of plastics**	7 ans	**4 ans**	21.03.2018	21.3.2019	21.9.2021

Usage No.	Nom de l'usage*	Périodes d'examen proposées par les demandeurs de CTACSub ***	Périodes d'examen recommandées par RAC/SEAC	Date recommandée pour débuter la préparation d'une demande individuelle d'autorisation, en supposant qu'un délai d'un an est requis	Date de dépôt recommandée pour la demande d'autorisation*	Fin de la période d'examen sur la base des recommandations du RAC/SEAC **
4	**Surface treatment for applications in the aeronautics and aerospace industries, unrelated to Functional chrome plating or Functional plating with decorative character**	12 ans	**7 ans**	21.03.2021	21.3.2022	21.9.2024
5	**Surface treatment (except ETP) for applications in various industry sectors namely architectural, automotive, metal manufacturing and finishing, and general engineering**	7 ans	**4 ans**	21.03.2018	21.3.2019	21.9.2021
6	**Passivation of tin-plated steel (ETP)**	4 ans	**4 ans**	21.03.2018	21.3.2019	21.9.2021

***30 mois avant l'expiration de la période d'examen recommandée (selon la Commission, la durée moyenne de la procédure est de 24 mois). Veuillez noter que les utilisateurs en aval, contrairement aux demandeurs précédents, ne sont pas protégés par des périodes transitoires. S'ils n'obtiennent pas leur propre autorisation avant la fin de la période d'examen, ou s'ils ne sont pas couverts par une autre autorisation, ils devront arrêter l'utilisation du produit.**
****Veuillez noter que la Commission propose souvent des périodes d'examen plus courtes que celles recommandées par les comités RAC/SEAC.**
***** A partir de la date d'expiration fixée au 21.09.2017.**

ACTUALIZACIÓN

Traducción Española

7 de mayo de 2018

Preguntas y Respuestas

CTACSub Consortium[38] (CTAC Submission Consortium)

Solicitudes de Autorización REACH para Ciertos Usos del Trióxido de Cromo[39]

Pregunta 1: Cuál es el estado de estas solicitudes de autorización?
Respuesta: Los Comités de ECHA para Evaluación de Riesgo (RAC) y Análisis Socio-económico (SEAC) recomendaron en septiembre de 2016 que la Comisión Europea ("Comisión") otorgara las autorizaciones pertinentes para la continuación de los 6 usos del trióxido de cromo (CE 215-607-8; CAS 1333-82-0)[40] solicitado por los miembros del CTACSub Consortium, partiendo de la base que los beneficios socio económicos de su uso continuo, superan los riesgos de la salud y el medio ambiente.[41]

Posteriormente, la Comisión debía elaborar propuestas de decisiones de autorización en un plazo de tres meses para su aprobación por mayoría cualificada por el Comité REACH, compuesto por representantes de los Estados miembros. Tras la aprobación por el Comité REACH, la Comisión tendría entonces que emitir las decisiones de autorización. Sin embargo, este procedimiento se ha retrasado[42] casi un año y medio.

Dadas las medidas de procedimiento que aún se requieren dentro de la Comisión y el Comité REACH posteriormente, y en vista del retraso acumulado, la adopción podría esperarse para marzo de 2019, como muy pronto.

Pregunta 2: Deben los usuarios intermedios del trióxido de cromo cesar de utilizar la sustancia en la Fecha de Expiración (21 de septiembre de 2017)?
Respuesta: NO. Según lo dispuesto en el artículo 58 (1)(c)(ii) de REACH, los usuarios intermedios suministrados directa o indirectamente por uno o más de los 7 solicitantes pueden continuar el uso de trióxido de cromo de estos proveedores más allá de la Fecha de Expiración hasta que la Comisión haya tomado una decisión sobre las autorizaciones.[43] Tenga en cuenta, que sin embargo, este uso continuado

[38] Los siguientes son miembros del CTACSub Consortium: Atotech Deutschland GmbH; Aviall Services Inc; Prospere Logistic Baltic OÜ (como sucesor legal de BONDEX TRADING LTD), in its legal capacity as Only Representative of Aktyubinsk Chromium Chemicals Plant, Kazakhstan; CROMITAL S.P.A. in its legal capacity as Only Representative of Soda Sanayii A.S.; Elementis Chromium LLP in its legal capacity as Only Representative of Elementis Chromium Inc.; Enthone GmbH (now MacDermid Enthone); LANXESS Deutschland GmbH in its legal capacity as Only Representative of LANXESS CISA (Pty) Ltd.
[39] Para obtener información adicional, por favor contacte con el Director del CTACSub Consortium uschliessner@jonesday.com, tel. +32-2-6451460.
[40] Consultas de Autorización Nº 0032-01 al 0032-06; véase en https://echa.europa.eu/applications-for-authorisation-previous-consultations. RAC y SEAC recomendaron los siguientes períodos de revisión (contando a partir del 21 de septiembre de 2017): Formulación de mezclas (0032-01) / Revestimiento de cromo funcional (cromo duro) (0032-02) / Tratamiento de superficie en las industrias aeronáutica y aeroespacial (0032-04) – todas 7 años; Revestimiento funcional con carácter decorativo (0032-03) / Tratamiento de superficie en otras industrias (0032-05) / Pasivación de acero estañado (ETP) (0032-06) – todas 4 años.
[41] Para obtener más información sobre los solicitantes, refiérase al comunicado de prensa anterior en www.jonesdayreach.com.
[42] De conformidad con el artículo 64, apartado 8 de REACH, la Comisión está obligada a preparar su decisión de autorización en un plazo de tres meses tras la recepción de los dictámenes del RAC/SEAC de la ECHA. Por lo tanto, en el caso de CTACSub, la Comisión se vio obligada a preparar su propuesta de decisiones de autorización antes de diciembre de 2016 (el RAC/SEAC emitió sus dictámenes el 16 de septiembre de 2016). Sin embargo, hasta la fecha, la Comisión no ha concluido su labor (al menos la aprobación del Gabinete y las consultas interservicios todavía no han concluido) y, por lo tanto, no ha transmitido sus propuestas de Decisión al Comité REACH.
[43] https://echa.europa.eu/de/support/qas-support/qas/-/q-and-a/5a109f43-fc76-70f8-501b-64b5ec456d45?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fde%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-

sólo está permitido en la medida en que los usos estén dentro del ámbito de aplicación de la autorización solicitada.

Pregunta 3: Cómo calcula la Comisión los períodos de revisión?
Respuesta: El 'período de revisión' es el tiempo durante el cual una autorización sigue siendo válida. Si se pretende que un uso continúe más allá del `período de revisión', el solicitante deberá presentar un `informe de revisión' a más tardar 18 meses antes del final del período de revisión. Es práctica habitual de la Comisión para solicitudes de autorización que se presentaron antes de la última fecha de solicitud, como las solicitudes de CTACSub, calcular el 'período de revisión' desde la Fecha de Expiración[44], independientemente del tiempo que tarde la Comisión en tramitar las solicitudes de autorización.

Pregunta 4: Cómo puede un usuario intermedio saber o averiguar si el trióxido de cromo que utiliza proviene (ha sido suministrado directa o indirectamente) de uno o más de los 7 solicitantes de CTACSub?
Respuesta: Hay varias posibilidades. En caso que la sustancia (o mezcla que contenga trióxido de cromo) sea suministrada directa o indirectamente por los solicitantes, es claramente evidente. El nombre de los solicitantes estará en las etiquetas, en la hoja de datos de seguridad y en las facturas (excepto en los casos de representantes exclusivos). En caso que la sustancia (o trióxido de cromo en mezcla) sea suministrada por proveedores o formuladores, cabe la posibilidad que las hojas de datos de seguridad, etiquetas y facturas no contengan esta información. En este caso, los usuarios intermedios deberán solicitar a sus proveedores individuales que confirmen por escrito[45] que el trióxido de cromo proviene de uno de los 7 solicitantes. Los proveedores, a su vez, deberán hacer las mismas preguntas a sus proveedores ascendentes para trazar completamente la cadena de suministro.

Pregunta 5: El artículo 66 de REACH exige que los usuarios intermedios notifiquen[46] a ECHA en el plazo de tres meses a partir de la primera entrega de una sustancia sometida a autorización con la identidad de la empresa, el número de autorización y su información de contacto. Información adicional puede ser enviada voluntariamente o puede ser obligatoria en el futuro. Es esta obligación aplicable a los usuarios intermedios que reciben trióxido de cromo directa o indirectamente de los 7 solicitantes?
Respuesta: NO. Esta obligación no es de aplicación mientras que las solicitudes de autorización estén pendientes y no hayan sido concedidas.[47] Mientras que no hayan decisiones de autorización, no habrán

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[44] https://echa.europa.eu/support/qas-support/qas/-/q-and-a/17855122-2830-ea0d-672c-5827f5176632?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3Dsunset%2Bdate%26_journalqasearch_WAR_journalqaportlet_formDate%3D1525684650197%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dfalse%26_journalqasearch_WAR_journalqaportlet_topic%3D%26_journalqasearch_WAR_journalqaportlet_from%3D%26_journalqasearch_WAR_journalqaportlet_to%3D%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_uniqueIds%3D

[45] El certificado puede ser como a continuación: "*Nosotros, Empresa X, confirmamos que todo el trióxido de cromo en sustancia o en mezcla que actualmente entregamos y que en un futuro entregaremos a nuestro cliente Z, proviene, directa o indirectamente, de uno o más de los 7 solicitantes de autorización REACH organizados como CTASub Consortium según www.jonesdayreach.com. Por lo tanto, nos comprometemos a informar a Z inmediatamente y antes de la próxima entrega si esta certificación ya no es correcta.*" Opcional: "*Nos responsabilizaremos de cualquier daño directo o indirecto que Z pueda sufrir debido a cualquier posible inexactitud de nuestra certificación.*"

[46] https://echa.europa.eu/support/dossier-submission-tools/reach-it/downstream-user-authorised-use

[47] https://echa.europa.eu/de/support/qas-support/qas/-/q-and-a/5a109f43-fc76-70f8-501b-64b5ec456d45?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fde%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3D1358%26_journalqasearch_WAR_journalqaportlet_formDate%3D1499779597651%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue

números de autorización y por lo tanto el modelo de notificación en su forma actual no podrá ser rellenada y enviada a ECHA.

Pregunta 6: Qué debe hacer un usuario intermedio en caso de que un cliente desee tener evidencia de que el usuario intermedio está autorizado a utilizar trióxido de cromo en sus instalaciones?
Respuesta: En el caso que se haya concedido autorización, el usuario intermedio puede proporcionar a su cliente una copia de su notificación de usuario intermedio del artículo 66 que presentó a la ECHA. Mientras que no se hayan concedido las autorizaciones, el usuario intermedio sólo podrá redactar una declaración en su membrete *que está autorizado a continuar usando trióxido de cromo de acuerdo con el régimen transicional establecido en el artículo 58(1)(c)(i) de REACH ya que todo el trióxido de cromo utilizado en sus instalaciones es suministrado directa o indirectamente por uno o más de los 7 solicitantes de CTACSub y su uso está comprendido dentro del alcance y limitaciones de la autorización solicitada.* Una copia de este cuestionario puede ser adjuntado a la declaración del usuario intermedio.

Pregunta 7: Qué debe hacer un usuario intermedio en caso de una inspección?
Respuesta: En primer lugar, hay que tener en cuenta que el Foro REACH [48] ha decidido que el cumplimiento de las autorizaciones REACH para los cromatos será una prioridad de la aplicación nacional en 2019. Por lo tanto, los usuarios intermedios deben esperar una inspección a más tardar en 2019. Varios Estados miembros (incluidos Francia y el Reino Unido) iniciaron campañas de inspección ya en 2017, inmediatamente después de que hubiera pasado la fecha de expiración.

En el caso de una inspección, el inspector solicitará al usuario intermedio su notificación del artículo 66 de REACH. En este caso, el usuario intermedio explicará que la obligación de la notificación del artículo 66 de REACH, todavía no le es de aplicación debido a las solicitudes de autorización siguen pendientes, véase más arriba. Además, el usuario intermedio debe poder demostrar que conoce los detalles de las solicitudes de autorización solicitadas. Debe poder demostrar y documentar mediante una autoevaluación que su actividad está comprendida en el ámbito de las solicitudes de autorización solicitadas y que aplica como mínimo las condiciones operativas y las medidas de gestión de riesgos descritas en la solicitud o solicitudes de autorización del CTACSub. Además, debe demostrar que cumple con la legislación nacional en materia de salud y seguridad en el lugar de trabajo, incluidos los límites de exposición profesional, la obligación de realizar una evaluación de seguridad para cada lugar de trabajo y observar la jerarquía de las medidas de prevención de carcinógenos en el lugar de trabajo.

Pregunta 8: Cómo puede saber un usuario intermedio si su actividad está comprendida dentro del alcance de la solicitud de autorización del CTACSub? Qué necesita hacer si este no es el caso?
Respuesta: La única manera de hacer esta determinación es revisando en profundidad los documentos de solicitud disponibles en la web de ECHA[49], en concreto la llamada Amplias Descripciones de Usos, los Análisis de Alternativas que describen los usos y los Informes de Seguridad Química. En caso de tener dudas, puede solicitar ayuda externa de consultores especializados. Si una actividad no se describe en un Escenario de Exposición en los Informes de Seguridad Química o si las condiciones operacionales actuales y las medidas de gestión de riesgos en las instalaciones no están de acorde a la descripción de los Informes de Seguridad Química, el usuario intermedio no podrá basarse en la aplicación de autorización pendiente del CTACSub. No está cubierto. En dicho caso, enviará de manera urgente su solicitud de autorización a ECHA y debería haber cesado el uso de trióxido de cromo a la Fecha de Expiración hasta que haya obtenido su propia autorización. Alternativamente, puede investigar si su actividad está cubierta por otra autorización pendiente o ya concedida – en ese caso, deberá cambiar de proveedor de trióxido de cromo.

Pregunta 9: Habrá cambios en el futuro que los usuarios intermedios deban tener en cuenta en los escenarios de exposición, las condiciones operativas y las medidas de gestión de riesgos establecidas en las solicitudes de autorización del CTACSub?
Respuesta: SI. El RAC recomienda en sus Opiniones, que la Comisión establezca condiciones en las decisiones de autorización (por ejemplo medidas de exposición). Como es en el caso de otras decisiones

[48] 11 Artículo 86 REACH. Compuesto por inspectores nacionales. Responsable de la coordinación de la aplicación en toda la UE. https://echa.europa.eu/-/more-enforcement-on-authorisation-and-registration-coming-up-for-2019
[49] https://echa.europa.eu/applications-for-authorisation-previous-consultations

de autorización, se espera que tales condiciones sean establecidas. Estas condiciones serán observadas por usuarios intermedios. También es posible que los solicitantes revisen en el futuro sus escenarios de exposición. Si es este el caso, la información y nuevos escenarios de exposición estarán disponibles a través de actualizaciones de hojas de datos de seguridad suministradas con el trióxido de cromo.

Pregunta 10: Existe alguna guía práctica disponible que puedan utilizar los usuarios intermedios para adaptar sus condiciones operativas de aquí en adelante a la espera de las autorizaciones y para ser considerados cubiertos por las aplicaciones pendientes durante el período transicional de acuerdo con el artículo 58 58(1)(c)(ii) de REACH?
Respuesta: SI. El CTACSub ha desarrollado y publicado[50], antes de la Fecha de Expiración, una serie de Hojas de Tareas prácticas, ilustrativas, de fácil comprensión ('Task Sheets' / 'Good Practice Sheets'), que establecen las condiciones operativas y medidas de gestión de riesgos recomendados a ser aplicadas cuando se trabaje con trióxido de cromo. Las 'Good Practice Sheets' contienen además, consejos sobre equipos de protección personal y monitoreo de la exposición. El cumplimiento de estas 'Good Practice Sheets' a partir de la Fecha de Expiración serán voluntarias, pero se recomienda para que el usuario intermedio demuestre la cobertura y el cumplimiento de las solicitudes de autorización pendientes.

Pregunta 11: Dados los retrasos actuales de la Comisión con la solicitud de autorización del CTACSub, qué deberían hacer los usuarios intermedios para obtener una mayor seguridad operacional y jurídica sobre si se permitirá su uso de trióxido de cromo en el futuro y durante cuánto tiempo?

Respuesta: El CTACSub recomienda que los usuarios intermedios hagan lo siguiente:

(1) Aplicar estrictamente las 'Good Practice Sheets';

(2) Llevar a cabo un seguimiento de la exposición y del medio ambiente según lo establecido en las 'Good Practice Sheets';

(3) Prepararse para presentar las solicitudes de autorización de usuarios intermedios ante la ECHA en las fechas recomendadas en la siguiente tabla.

n.º del uso	**Nombre del uso***	**Períodos de revisión propuestos por los solicitantes del CTACSub *** **	**Períodos de revisión recomendados por el RAC/SEAC**	**Fecha recomendada para comenzar a preparar las solicitudes de autorización de usuarios intermedios, suponiendo que se requiere un plazo de entrega de 1 año.**	**Fecha límite de presentación recomendada para solicitudes de autorización de usuarios intermedios***	**Fin del período de revisión basado en las recomendaciones del RAC/SEAC ****
1	**Formulation of mixtures**	12 años+	**7 años**	21.03.2021	21.3.2022	21.9.2024
2	**Functional chrome plating (Hard Chrome)**	12 años	**7 años**	21.03.2021	21.3.2022	21.9.2024
3	**Functional chrome plating with decorative character incl.**	7 años	**4 años**	21.03.2018	21.3.2019	21.9.2021

[50] Ver http://www.jonesdayreach.com/SitePages/Home.aspx

n.º del uso	Nombre del uso*	Períodos de revisión propuestos por los solicitantes del CTACSub ***	Períodos de revisión recomendados por el RAC/SEAC	Fecha recomendada para comenzar a preparar las solicitudes de autorización de usuarios intermedios, suponiendo que se requiere un plazo de entrega de 1 año.	Fecha límite de presentación recomendada para solicitudes de autorización de usuarios intermedios*	Fin del período de revisión basado en las recomendaciones del RAC/SEAC **
	Etching of plastics					
4	**Surface treatment for applications in the aeronautics and aerospace industries, unrelated to Functional chrome plating or Functional plating with decorative character**	12 años	**7 años**	21.03.2021	21.3.2022	21.9.2024
5	**Surface treatment (except ETP) for applications in various industry sectors namely architectural, automotive, metal manufacturing and finishing, and general engineering**	7 años	**4 años**	21.03.2018	21.3.2019	21.9.2021
6	**Passivation of tin-plated steel (ETP)**	4 años	**4 años**	21.03.2018	21.3.2019	21.9.2021

***30 meses antes de la expiración del período de revisión recomendado (según la Comisión, la duración media del procedimiento de las solicitudes de autorización es de 24 meses). Obsérvese que los usuarios intermedios, a diferencia de los anteriores solicitantes, no están protegidos por ningún período transitorio. Si no tienen su propia autorización al final del período de revisión o no están cubiertos por otra autorización concedida, deben suspender el uso.**

**** Téngase en cuenta que, a menudo, la Comisión propone períodos de revisión más cortos que los recomendados por el RAC/SEAC.**
***** Contando desde la fecha límite 21.09.2017.**

AGGIORNAMENTO

Traduzione Italiana

7 Maggio 2018

Domande & Risposte

Consorzio CTACSub[51] (CTAC Submission Consortium)

Richieste di autorizzazione REACH per alcuni usi del Triossido di cromo[52]

Domanda 1: Qual è lo status di tali richieste di autorizzazione?
Risposta: Nel Settembre 2016, il Comitato per la Valutazione dei Rischi (RAC) e il Comitato per l'Analisi Socio-economica (SEAC) dell'Agenzia Europea per le sostanze chimiche (ECHA), hanno raccomandato alla Commissione Europea (in seguito, Commissione) di concedere le autorizzazioni per la continuazione dei 6 usi del Triossido di Cromo (EC 215-607-8; CAS 1333-82-0)[53] richiesti dai membri del Consorzio CTACSub sulla base della considerazione che i benefici socio-economici dell'uso continuato sono maggiori rispetto ai rischi per la salute ed ambientali da esso derivanti.[54]

Entro tre mesi, la Commissione avrebbe dovuto perfezionare le proposte di autorizzazione per l'approvazione, a maggioranza qualificata, del Comitato REACH che si compone dei rappresentanti degli Stati Membri. A seguito dell'approvazione da parte del Comitato REACH, la Commissione avrebbe poi dovuto emettere le decisioni di autorizzazione. Tuttavia, questa procedura è stata al momento ritardata[55] di almeno 1 anno e mezzo.

Domanda 2: Gli utilizzatori a valle del triossido di cromo devono cessare di utilizzare la sostanza dopo la data di scadenza (21 Settembre 2017)?
Risposta: NO. L'Articolo 58(1)(c)(ii) del Regolamento REACH prevede che gli utilizzatori a valle riforniti direttamente o indirettamente da uno o più dei 7 soggetti richiedenti l'autorizzazione possano continuare i loro usi del triossido di cromo ottenuto dai suddetti fornitori oltre la data di scadenza, fino al momento in cui la Commissione avrà deciso sulle autorizzazioni.[56] Si noti, tuttavia, che un tale uso continuato è esclusivamente consentito a condizione che gli usi rientrino nell'ambito dell'autorizzazione richiesta.

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[51] I membri del Consorzio CTACSub sono: Atotech Deutschland GmbH; Aviall Services Inc; Prospere Logistic Baltic OÜ è il successore legalmente riconosciuto di BONDEX TRADING LTD in its legal capacity as Only Representative of Aktyubinsk Chromium Chemicals Plant, Kazakhstan; CROMITAL S.P.A. in its legal capacity as Only Representative of Soda Sanayii A.S.; Elementis Chromium LLP in its legal capacity as Only Representative of Elementis Chromium Inc.; Enthone GmbH (now MacDermid Enthone); LANXESS Deutschland GmbH in its legal capacity as Only Representative of LANXESS CISA (Pty) Ltd.

[52] Per ulteriori informazioni si prega di contattare il Manager del Consorzio CTACSub uschliessner@jonesday.com, tel. +32-2-6451460.

[53] Le consultazioni in merito alle autorizzazioni dal numero 0032-01 al 0032-06 si trovano sul sito https://echa.europa.eu/it/applications-for-authorisation-previous-consultations. Il RAC ed il SEAC hanno raccomandato i seguenti periodi di verifica (a partire dal 21 Settembre 2017): Formulazione delle sostanze in quanto componenti di preparati o articoli (0032-01)/Trattamento funzionale di superficie del cromo (cromo duro) (0032-02)/ Trattamento di superficie nell'industria aeronautica e aerospaziale (0032-04) – tutti 7 anni; Trattamento funzionale di superficie a carattere decorativo (0032-03)/ Trattamento di superficie in altre industrie (0032-05)/ Passivazione dell'acciaio stagnato (ETP) (0032-06) – tutti 4 anni.

[54] Per ulteriori informazioni sulle richieste, vedi precedente rassegna stampa all'indirizzo www.jonesdayreach.com.

[55] In base all'Articolo 64 (8) del Regolamento REACH, la Commissione deve predisporre la decisione di autorizzazione entro tre mesi dalla ricezione dei pareri del Comitato ECHA per la Valutazione dei Rischi (RAC) e dal Comitato ECHA per l'Analisi Socio-economica (SEAC). Nel caso del Consorzio CTACSub, la Commissione avrebbe dovuto pertanto predisporre la Proposta per le decisioni di autorizzazione entro Dicembre 2016 (I Comitati RAC/SEAC avevano inviato i loro pareri nel 16 Settembre 2016). Tuttavia, ad oggi, la Commissione non ha finalizzato il proprio lavoro (l'approvazione da parte del Gabinetto e la procedura di consultazione inter-servizi risultano ancora in arretrato) e non ha perciò inviato la proposta di decisione al Comitato REACH.

[56] https://echa.europa.eu/de/support/qas-support/qas/-/q-and-a/5a109f43-fc76-70f8-501b-64b5ec456d45?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fde%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-

Domanda 3: Qual è il metodo di calcolo del "periodo di revisione" utilizzato dalla Commissione?
Risposta: Il "periodo di revisione" è il periodo in cui l'autorizzazione rimane valida. L'utilizzatore che intende fare uso del prodotto oltre il periodo di revisione, è tenuto a presentare una relazione di revisione almeno 18 mesi prima della scadenza di detto periodo. E' prassi consolidata della Commissione, nei casi di richieste di autorizzazione presentate prima del termine ultimo previsto, come quella di CTACSub, di calcolare il periodo di revisione dalla data di scadenza (21 Settembre 2017),[57] indipendentemente dal ritardo della Commissione sulla procedura di autorizzazione.

Domanda 4: In che modo un utilizzatore a valle può sapere se il triossido di cromo che sta utilizzando proviene (è stato fornito direttamente o indirettamente) da uno o più dei 7 richiedenti l'autorizzazione facenti parte del Consorzio CTACSub?
Risposta: Vi sono diverse possibilità. Qualora la sostanza (o una miscela contenente il triossido di cromo) sia fornita direttamente dai richiedenti, ciò risulta chiaro. Il nome dei richiedenti si troverà sull'etichetta, sulla scheda dei dati di sicurezza e sulle fatture (salvo i casi di rappresentanti esclusivi) . Qualora la sostanza (o il triossido di cromo in miscela) sia fornito dai distributori o formulatori, le schede dei dati di sicurezza, le etichette e le fatture potrebbero non contenere questa informazione. In tal caso, gli utilizzatori a valle dovranno chiedere ai loro fornitori individuali di confermare per iscritto[58] che il triossido di cromo proviene da uno dei 7 soggetti richiedenti l'autorizzazione. I fornitori a loro volta potrebbero dover chiedere le stesse informazioni ai loro fornitori a monte per tracciare la filiera di distribuzione in modo completo.

Domanda 5: L'Articolo 66 REACH richiede agli utilizzatori a valle di notificare[59] a ECHA entro tre mesi dalla prima consegna di una sostanza soggetta ad autorizzazione, insieme alle generalità della società, il numero di autorizzazione e il recapito. Informazioni ulteriori possono essere inviate volontariamente o potrebbero diventare obbligatorie in futuro. Tale obbligo si applica agli utilizzatori a valle che ricevono il triossido di cromo direttamente o indirettamente dai 7 soggetti richiedenti l'autorizzazione?
Risposta: NO. Tale obbligo non si applica finché le richieste di autorizzazione sono ancora pendenti e non sono state pertanto rilasciate. [60] Fintanto che non sia stata presa alcuna decisione in merito all'autorizzazione, non vi sono numeri di autorizzazione e pertanto il modello di notifica nella sua forma attuale non può essere completato e inviato all'ECHA.

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[57] https://echa.europa.eu/support/qas-support/qas/-/q-and-a/17855122-2830-ea0d-672c-5827f5176632?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3Dsunset%2Bdate%26_journalqasearch_WAR_journalqaportlet_formDate%3D1525684650197%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dfalse%26_journalqasearch_WAR_journalqaportlet_topic%3D%26_journalqasearch_WAR_journalqaportlet_from%3D%26_journalqasearch_WAR_journalqaportlet_to%3D%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_uniqueIds%3D

[58] La certificazione potrebbe recitare come segue: "Noi, società X, con la presente confermiamo che tutto il triossido di cromo, sia come sostanza sia come preparato, che stiamo al momento consegnando e che consegneremo in futuro al nostro cliente Z, proviene, direttamente o indirettamente, da uno o più dei 7 soggetti richiedenti un'autorizzazione REACH, organizzati come Consorzio CTACSub, come dal sito www.jonesdayreach.com. Con la presente ci impegniamo ad informare Z immediatamente e prima della successiva consegna nel caso in cui questa certificazione non dovesse più essere corretta." Facoltativamente: "Ci assumiamo la responsabilità di qualsiasi danno diretto e/o indiretto che Z possa subire in conseguenza di qualsiasi possibile inesattezza della nostra certificazione."

[59] https://echa.europa.eu/support/dossier-submission-tools/reach-it/downstream-user-authorised-use

[60] https://echa.europa.eu/de/support/qas-support/qas/-/q-and-a/5a109f43-fc76-70f8-501b-64b5ec456d45?_journalqasearch_WAR_journalqaportlet_backURL=https%3A%2F%2Fecha.europa.eu%2Fde%2Fsupport%2Fqas-support%2Fqas%3Fp_p_id%3Djournalqasearch_WAR_journalqaportlet%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_pos%3D2%26p_p_col_count%3D3%26_journalqasearch_WAR_journalqaportlet_keywords%3D1358%26_journalqasearch_WAR_journalqaportlet_formDate%3D1499779597651%26_journalqasearch_WAR_journalqaportlet_basicSearch%3Dtrue%26_journalqasearch_WAR_journalqaportlet_doSearch%3Dtrue

Domanda 6: Cosa deve fare un utilizzatore a valle qualora un cliente desideri avere la prova che l'utilizzatore a valle sia autorizzato a utilizzare il triossido di cromo presso il proprio stabilimento?
Risposta: Qualora un'autorizzazione sia stata concessa, l'utilizzatore a valle può fornire al suo cliente una copia della notifica dell'utilizzatore a valle, ex Articolo 66 del regolamento REACH, che ha inviato all'ECHA. Finché le autorizzazioni non sono state rilasciate, l'utilizzatore a valle può solamente redigere una dichiarazione su carta intestata con la quale afferma di essere autorizzato ad utilizzare il triossido di cromo compatibilmente col regime transitorio di cui all'Articolo 58(1)(c)(ii) del regolamento REACH, in quanto tutto il triossido di cromo utilizzato presso il suo stabilimento è fornito direttamente o indirettamente da uno o più dei 7 richiedenti l'autorizzazione facenti parte del Consorzio CTACSub e l'utilizzo rientra nei limiti previsti dall'autorizzazione richiesta. Una copia di questo formulario di domande e risposte può essere allegato alla dichiarazione dell'utilizzatore a valle.

Domanda 7: Cosa deve fare un utilizzatore a valle in caso di ispezione?
Risposta: Anzitutto, si noti che il REACH FORUM[61] ha deciso che il rispetto delle autorizzazioni REACH per i cromati costituirà, nel 2019, una priorità nell'attuazione delle norme regolamentari a livello nazionale. Gli utilizzatori a valle dovranno pertanto attendersi un'ispezione al più tardi nel 2019. Numerosi Stati Membri (inclusi Francia e Regno Unito) hanno iniziato campagne di ispezione nel 2017, immediatamente dopo Sunset Date dell'autorizzazione.

In caso di ispezione, l'ispettore chiederà all'utilizzatore a valle di mostrare la notifica ex Articolo 66 del regolamento REACH. In tal caso, l'utilizzatore a valle dovrà spiegare che l'obbligo di notifica previsto dall'Articolo 66 REACH non gli è ancora applicabile in quanto le richieste di autorizzazione sono ancora pendenti (vedi sopra). Inoltre, l'utilizzatore a valle dovrà essere in grado di dimostrare di essere a conoscenza dei dettagli delle richieste di autorizzazione inoltrate. Il soggetto dovrà essere in grado di dimostrare e di documentare tramite autocertificazione che la sua attività rientra nell'ambito delle richieste di autorizzazione inoltrate e che egli applica come minimo le condizioni operative e le misure di gestione del rischio descritte nella/e richiesta/e di autorizzazione da parte del Consorzio CTACSub. Inoltre, il soggetto dovrà dimostrare di agire in conformità alla legislazione nazionale in materia sanitaria e di sicurezza sul posto di lavoro, inclusi i limiti di esposizione sul posto di lavoro, l'obbligo di effettuare una valutazione della sicurezza di ogni posto di lavoro e di osservare la gerarchia delle misure di prevenzione concernenti gli agenti cancerogeni sul posto di lavoro.

Domanda 8: Come può un utilizzatore a valle sapere se la sua attività rientra nell'ambito della richiesta di autorizzazione del Consorzio CTACSub? Cosa deve fare qualora non vi rientri?
Risposta: L'unico modo per effettuare questo accertamento è un esame approfondito dei documenti costituenti la richiesta di autorizzazione disponibili sul sito web dell'ECHA[62], in particolare le c.d. Descrizioni Generali degli Usi, le Analisi delle Alternative pertinenti agli usi e le Relazioni sulla Sicurezza Chimica. In caso di dubbio, l'utilizzatore a valle potrà rivolgersi ad un aiuto esterno da parte di consulenti specializzati. Se un'attività non è descritta in uno degli Scenari di Esposizione contenuti nelle Relazioni sulla Sicurezza Chimica o se le attuali condizioni operative e le misure di gestione del rischio presso lo stabilimento non sono in linea con la descrizione contenuta nelle Relazioni sulla Sicurezza Chimica, l'utilizzatore finale non può fare affidamento sulle richieste di autorizzazione in sospeso da parte del Consorzio CTACSub. L'utilizzatore non è coperto. In tal caso, questi dovrà urgentemente inoltrare la propria richiesta di autorizzazione all'ECHA e dovrà cessare l'utilizzo del triossido di cromo già a partire dalla data di scadenza (Sunset Date) e fin quando non avrà ottenuto la propria autorizzazione. In alternativa, l'utilizzatore a valle può vedere se la sua attività sia coperta da un'altra autorizzazione in sospeso o già rilasciata – nel qual caso questi dovrà cambiare fornitore di triossido di cromo.

Domanda 9: In futuro vi saranno modifiche relative agli scenari di esposizione, alle condizioni operative e alle misure di gestione del rischio stabiliti nelle richieste di autorizzazione da parte del Consorzio CTACSub, di cui gli utilizzatori a valle devono essere al corrente?

[61] Articolo 86 del Regolamento REACH "Costituzione del FORUM" che consiste di ispettori nazionali ed è responsabile del coordinamento dell'attuazione delle norme regolamentari nell'UE. https://echa.europa.eu/-/more-enforcement-on-authorisation-and-registration-coming-up-for-2019
[62] https://echa.europa.eu/it/applications-for-authorisation-previous-consultations

Risposta: SI. Il RAC ha raccomandato nei suoi Pareri che la Commissione stabilisca delle condizioni nelle decisioni relative all'autorizzazione (ad esempio, misure di esposizione). Come nel caso di altre decisioni relative all'autorizzazione, c'è da aspettarsi che tali condizioni vengano stabilite. Queste condizioni devono essere osservate dagli utilizzatori a valle. È inoltre possibile che i richiedenti l'autorizzazione dovranno rivedere in futuro i propri scenari di esposizione. In tal caso, le informazioni e i nuovi scenari di esposizione dovranno essere resi disponibili mediante aggiornamenti nelle schede dei dati di sicurezza forniti insieme al triossido di cromo.

Domanda 10: Esiste una guida pratica disponibile che gli utilizzatori a valle possono utilizzare per adeguare le loro condizioni operative da adesso in attesa delle autorizzazioni e in modo tale da essere considerati coperti dalle richieste in sospeso durante il periodo transitorio in base all'Articolo 58(1)(c)(ii) del regolamento REACH?
Risposta: SI. Il Consorzio CTACSub ha sviluppato e pubblicato[63] prima della data di scadenza una serie di schede illustrative di attività pratiche facilmente comprensibili ('Task Sheets' / 'Good Practice Sheets'), le quali spiegheranno le condizioni operative e le misure di gestione del rischio raccomandate in caso di trattamento del triossido di cromo. Le Good Practice Sheets contengono inoltre consigli sull'equipaggiamento protettivo personale e sul monitoraggio dell'esposizione. Il rispetto Good Practice Sheets fino alla data di scadenza è facoltativo, ma è consigliato affinché l'utilizzatore a valle possa dimostrare di essere coperto dalle e di rispettare le richieste di autorizzazione pendenti.

Domanda 11: Dati i ritardi della Commissione in merito alla richiesta di autorizzazione da parte di CTACSub, quando e cosa devono fare gli utilizzatori a valle per ottenere vantaggi in termini di certezza operativa e giuridica in caso di futura autorizzazione del triossido di cromo?

Risposta: CTACSub raccomanda agli utilizzatori a valle di:

(1) Applicare rigorosamente le Good Practice Sheets (che possono anche essere mostrate in caso di ispezioni);

(2) Analizzare e monitorare l'esposizione ambientale come previsto nelle Good Practice Sheets;

(3) Essere pronti a presentare richieste di autorizzazione alla ECHA entro i termini raccomandati nella tabella sottostante

Uso N°	**Nome uso***	**Periodo di revisione proposto dai richiedenti CTACSub*** **	**Periodo di revisione consigliato da RAC/SEAC**	**Data consigliata per iniziare la preparazione delle richieste di autorizzazione, (considerata la tempistica di 1 anno per la preparazione)**	**Data consigliata per depositare le richieste di autorizzazione**	**Fine del periodo di revisione in base ai pareri RAC/SEAC ****
1	**Formulation of mixtures**	12 anni+	**7 anni**	21.03.2021	21.3.2022	21.9.2024
2	**Functional chrome plating (Hard Chrome)**	12 anni	**7 anni**	21.03.2021	21.3.2022	21.9.2024
3	**Functional chrome plating with decorative character incl. Etching of plastics**	7 anni	**4 anni**	21.03.2018	21.3.2019	21.9.2021

[63] See http://www.jonesdayreach.com/SitePages/Home.aspx

Uso N°	Nome uso*	Periodo di revisione proposto dai richiedenti CTACSub***	Periodo di revisione consigliato da RAC/SEAC	Data consigliata per iniziare la preparazione delle richieste di autorizzazione, (considerata la tempistica di 1 anno per la preparazione)	Data consigliata per depositare le richieste di autorizzazione	Fine del periodo di revisione in base ai pareri RAC/SEAC **
4	**Surface treatment for applications in the aeronautics and aerospace industries, unrelated to Functional chrome plating or Functional plating with decorative character**	12 anni	**7 anni**	21.03.2021	21.3.2022	21.9.2024
5	**Surface treatment (except ETP) for applications in various industry sectors namely architectural, automotive, metal manufacturing and finishing, and general engineering**	7 anni	**4 anni**	21.03.2018	21.3.2019	21.9.2021
6	**Passivation of tin-plated steel (ETP)**	4 anni	**4 anni**	21.03.2018	21.3.2019	21.9.2021

***30 mesi prima della scadenza del periodo di revisione consigliato (secondo la Commissione, la durata media della procedura di autorizzazione è di 24 mesi). Si noti che gli utilizzatori a valle, a differenza dei richiedenti precedenti, non sono protetti da alcun periodo transitorio. Se non possiedono la propria autorizzazione entro la fine del periodo di revisione o non sono coperti da nessun altra autorizzazione, devono sospenderne l'uso.**
****Si noti che spesso la Commissione propone periodi di revisione più brevi rispetto a quelli consigliati da RAC/SEAC.**
***** A partire dalla data di scadenza 21.09.2017.**

PRESS RELEASE[1]
JANUARY 18, 2017

The **CTACSub Consortium** (CTAC Submission Consortium) is pleased to announce that ECHA's Committees for Risk Assessment (RAC) and Socio-economic Analysis (SEAC) have recommended in September 2016 that the European Commission ('Commission') grant the authorizations for continuation of the 6 uses of chromium trioxide (EC 215-607-8; CAS 1333-82-0)[2] applied for by the members of the CTACSub Consortium, on the basis that the socio economic benefits of continued use outweigh the health and environmental risks thereof.[3]

The Commission is now actively working on the draft authorization Decisions, which will have to be agreed with the EU Member States. As no legal deadline is provided for the Commission to issue its final Decisions, and given previous experience on other authorization files, it is possible that the authorization Decisions may not be issued before the Sunset Date of September 21, 2017.

However, in case of delay, Art. 58(1)(c)(ii) REACH provides that downstream users supplied directly or indirectly by the 7 applicants may continue their uses beyond the Sunset Date until the Commission will have decided on the authorizations. Please note though that such continued use is only permitted in as far as the uses are within the remit of the authorization applied for. The CTACSub Consortium therefore encourages its downstream users to thoroughly review the scope of the applications for authorization on the ECHA website.

The CTACSub Consortium together with several European and national downstream user and article manufacturer trade federations is currently working on a series of good practice / task sheets which will illustrate in an easy comprehensible form the risk management measures and operational conditions recommended to be applied by downstream users for the uses of chromium trioxide within the remit of the CTACSub Consortium. These sheets will be available for download in the coming months and before the Sunset Date. In any event, all downstream users are held to comply at this time already with all national laws on work place and environmental safety.

Members of the CTACSub Consortium are:

- Atotech Deutschland GmbH
- Aviall Services Inc
- BONDEX TRADING LTD in its legal capacity as Only Representative of Aktyubinsk Chromium Chemicals Plant, Kazakhstan
- CROMITAL S.P.A in its legal capacity as Only Representative of Soda Sanayii A.S.
- Elementis Chromium LLP in its legal capacity as Only Representative of Elementis Chromium Inc.
- Enthone GmbH
- LANXESS Deutschland GmbH in its legal capacity as Only Representative of LANXESS CISA (Pty) Ltd

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[1] For additional information, please contact the CTACSub Consortium Manager uschliessner@jonesday.com, tel. +32-2-6451460.

[2] Authorization consultations No. 0032-01 to 0032-06; see at https://echa.europa.eu/applications-for-authorisation-previous-consultations. RAC and SEAC have recommended the following review periods (to be counted as of September 21, 2017): Formulation of mixtures (0032-01) / Functional chrome plating (0032-02) / Surface treatment in the aeronautic and aerospace industry (0032-04) – all 7 years; Functional plating with decorative character (0032-03) / Surface treatment in other industries (0032-05) / Passivation of tin-plated steel (ETP) (0032-06) - all 4 years.

[3] For more information on the applications, see previous press release at www.jonesdayreach.com

Deutsche Übersetzung

Das **CTACSub Consortium** (CTAC Submission Consortium) freut sich mitzuteilen, dass die ECHA Ausschüsse für Risikobeurteilung (RAC) und Sozioökonomische Analyse (SEAC) im September 2016 der Europäischen Kommission (Kommission) empfohlen haben, die Zulassungen für die von den CTACSub Mitgliedern beantragte Fortsetzung der 6 Verwendungen von Chromtrioxid (EC 215-607-8; CAS 1333-82-0) [4] zu erteilen, weil der sozioökonomische Nutzen der Weiterverwendung den Gesundheits- und Umweltrisiken überwiegt.[5]

Die Kommission arbeitet nun aktiv an den Entscheidungsentwürfen, die mit den Mitgliedstaaten abgestimmt werden müssen. Da es keine rechtliche Frist für die Entscheidung der Kommission gibt, ist auch wie schon in der Vergangenheit in anderen Fällen damit zu rechnen, dass die Zulassungsentscheidungen eventuell erst nach dem Ablaufdatum (Sunset Date) vom 21. September 2017 verkündet werden.

Sollte es zu einer Verspätung kommen, sieht Artikel 58(1)(c)(ii) REACH jedoch vor, dass diejenigen nachgeschalteten Anwender, die von den 7 Antragstellern direkt oder indirekt beliefert werden, ihre Verwendung über das Ablaufdatum hinaus bis zur Entscheidung der Kommission fortführen können. In einem solchen Fall ist jedoch zu beachten, dass die Fortsetzung der Verwendung nur insofern gestattet ist, als dass die Verwendung sich im Anwendungsbereich des Zulassungsantrags befindet. Das CTACSub Consortium ermutigt daher die nachgeschalteten Anwender, den Anwendungsbereich der Zulassungsanträge auf der Webseite der ECHA eingehend zu studieren.

Zusammen mit mehreren europäischen und nationalen Verbänden sowohl der Anwender als auch der herstellenden Industrie arbeitet das CTACSub Consortium zur Zeit an einer Sammlung von Informationsblättern mit Beschreibungen bewährter Praktiken, die in einer leicht verständlichen Form die empfohlenen Risikominimierungsmaßnahmen und operationellen Bedingungen bei den Anwendern im Rahmen der Zulassungsanträge darstellen. Diese Blätter werden voraussichtlich in den nächsten Monaten, aber in jedem Fall vor dem Ablaufdatum, zum Herunterladen bereitgestellt werden. Darüberhinaus wird aber nochmals betont, dass die nachgeschalteten Anwender schon zum jetzigen Zeitpunkt gehalten sind, nationales Arbeitsschutz- und Umweltrecht einzuhalten.

[4] Konsultationen zu den Zulassungsanträgen Nr. 0032-01 bis 0032-06; siehe https://echa.europa.eu/applications-for-authorisation-previous-consultations. RAC und SEAC haben die folgenden Überprüfungszeiträume empfohlen: (Frist läuft ab 21. September 2017): Formulation of mixtures (0032-01) / Functional chrome plating (0032-02) / Surface treatment in the aeronautic and aerospace industry (0032-04) – alle 7 Jahre; Functional plating with decorative character (0032-03) / Surface treatment in other industries (0032-05) / Passivation of tin-plated steel (ETP) (0032-06) - alle 4 Jahre.

[5] Siehe auch frühere Pressemitteilung auf www.jonesdayreach.com

Traduction Francaise

Le Consortium CTACSub (CTAC Submission Consortium) est heureux d'annoncer que les Comités de l'ECHA pour l'Evaluation des Risques (RAC) et pour l'Analyse Socio-Economique (SEAC) ont recommandé en septembre 2016 que la Commission européenne (Commission) accorde les autorisations de poursuite des 6 utilisations de trioxyde de chrome (EC 215-607-8; CAS 1333-82-0)[6] demandées par les membres du CTACSub Consortium, en raison de bénéfices socio-économiques, lors d'une utilisation continue, supérieurs aux risques pour la santé et l'environnement.[7]

La Commission travaille actuellement activement sur les projets de décisions d'autorisation qui devront être convenus avec les États membres. Étant donné l'absence de délai légal obligeant la Commission à rendre ses décisions finales et compte tenu de l'expérience acquise sur d'autres dossiers d'autorisation, il est possible que les décisions d'autorisation ne puissent pas être émises avant la date d'expiration (Sunset date) du 21 septembre 2017.

Toutefois, en cas de retard, l'art. 58 (1)(c)(ii) REACH prévoit que les utilisateurs en aval, approvisionnés directement ou indirectement par les 7 demandeurs, peuvent poursuivre leurs utilisations au-delà de la date d'expiration jusqu'à ce que la Commission ait statué sur les autorisations. Veuillez toutefois noter que cette utilisation continue n'est autorisée que dans la mesure où les utilisations relèvent du cadre de l'autorisation demandée. Le Consortium CTACSub encourage donc ses utilisateurs en aval à examiner en profondeur la portée des demandes d'autorisation sur le site internet de l'ECHA.

Le Consortium CTACSub, en collaboration avec plusieurs fédérations professionnelles européennes et nationales d'utilisateurs en aval et de fabricants d'articles, travaille actuellement sur une série de fiches de bonnes pratiques qui illustreront sous une forme facilement compréhensible les mesures de gestion des risques et les conditions opérationnelles recommandées aux utilisateurs en aval pour les utilisations du trioxyde de chrome dans le cadre du CTACSub Consortium. Ces fiches pourront être téléchargées dans les prochains mois et avant la date d'expiration. Toutefois, tous les utilisateurs en aval sont tenus, dès maintenant, de se conformer à toutes les lois nationales sur la sécurité au travail et environnementale.

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[6] Consultations sur les demandes d'autorisation n° 0032-01 à 0032-06; voir https://echa.europa.eu/applications-for-authorisation-previous-consultations. RAC et SEAC ont recommandé les périodes de réexamen suivantes (à compter du 21 septembre 2017): Formulation of mixtures (0032-01) / Functional chrome plating (0032-02) / Surface treatment in the aeronautic and aerospace industry (0032-04) – tous les 7 ans; Functional plating with decorative character (0032-03) / Surface treatment in other industries (0032-05) / Passivation of tin-plated steel (ETP) (0032-06) - tous les 4 ans.

[7] Pour plus d'informations à propos des applications, voir le communiqué de presse précédent sur www.jonesdayreach.com

PRESS RELEASE
JUNE 27, 2016

Progress on Applications for REACH Authorization

of Several Uses of Chromium Trioxide – RAC and SEAC Draft Opinions

Following the **CTACSub Consortium's** (CTAC Submission Consortium) press release of May 2015 on its submission to ECHA of the application for REACH authorization ('AfA') of six uses of chromium trioxide [1], ECHA's RAC (Risk Assessment) and SEAC (Socio-Economic Analysis) Committees have recently issued their draft opinions on this AfA.

In their draft opinions, RAC and SEAC support the AfA and will recommend that the six uses[2] applied for shall be authorized by the European Commission, because the *overall benefits of continued use* of chromium trioxide for these uses *outweigh the risks to human health*.

This means that the direct and indirect customers of the seven CTACSub applicant companies will be allowed to continue using chromium trioxide for the six uses beyond the September 21, 2017 so-called sunset date (i.e. the date by which the use would have to be stopped unless the use is covered by a REACH authorization handed down either to the user or his upstream supplier).

RAC's and SEAC's draft opinions recommend the adoption by the European Commission of the following so-called review periods[3]: Use 1: seven years; Use 2: seven years; Use 3: four years; Use 4: seven years; Use 5: four years; Use 6: four years ('bridging period' applied for). In the nomenclature of RAC and SEAC, 'seven years' constitutes the default 'normal' review period (absent perceived special circumstances).

The CTACSub applicants have concerns regarding several aspects of the draft opinions and intend to use their opportunity to submit comments. After the final opinions will have been issued in September, the AfA will be transferred to the European Commission for a decision.

For additional information please contact CTACSub's consortium manager uschliessner@jonesday.com, tel. 32-2-6451460.

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1 See more information at www.jonesdayreach.com. AfA 0032-1 to 6. Applicants are Atotech Deutschland GmbH (formulator); Aviall Services Inc. The Netherlands Branch (affiliate of The Boeing Company), (importer of formulations); Bondex Trading Ltd. (importer); Cromital Spa (OR) (for and affiliate of Soda Sanayii A.S.); Elementis Chromium LLP (OR) (for Elementis Chromium Inc.); Enthone GmbH (formulator); Lanxess Deutschland GmbH (OR) (for Lanxess CISA (Pty) Ltd.) acting as Submitting Applicant for the joint application.

2 Use 1: formulation of mixtures; Use 2: functional chrome plating; Use 3: functional chrome plating with decorative character; Use 4: Surface treatment for applications in the aeronautics and aerospace industries, unrelated to Functional chrome plating or Functional plating with decorative character; Use 5: Surface treatment (except ETP) for applications in various industry sectors namely architectural, automotive, metal manufacturing and finishing, and general engineering; Use 6: Passivation of tin-plated steel (ETP).

3 A review period is a deadline in advance of which the applicant must have filed an updated report on the authorization which will allow the European Commission to decide whether the authorized use may continue or not.

Deutsche Zusammenfassung (German language summary)

Die RAC und SEAC Ausschüsse der Europäischen Chemikalienagentur (ECHA) haben kürzlich die Entwürfe ihrer Empfehlungen zum CTACSub Antrag auf REACH Zulassung der Nutzung von Chromtrioxid verabschiedet. Sie stimmen den sechs Anträgen auf Zulassung zu. Die Entwürfe empfehlen Überprüfungszeiträume von sieben Jahren für Formulierung, Hartverchromung und Oberflächenbehandlung in der Luftfahrtindustrie, und von vier Jahren für funktionelle Verchromung mit dekorativem Charakter, Oberflächenhandlung in anderen Industrien, und ETP.

Das bedeutet, dass die direkten und indirekten Kunden der sieben Antragsteller Chromtrioxid über den Ablauftermin vom 21. September 2017 hinaus benutzen werden können.

Die ECHA Empfehlungen werden nach der Sommerpause der EU Kommission zur Entscheidung vorgelegt werden.

Sommaire en Français (French language summary)

Les comités RAC et SEAC de l'Agence Européenne des Produits Chimiques (ECHA) ont récemment approuvé leurs projets d'avis concernant les six demandes d'autorisation REACH de CTACSub pour l'utilisation du trioxyde de chrome. Ils recommandent des périodes limitées de réexamen de sept années pour les mélanges, la chromatisation dur, et le traitement des surfaces pour l'aéronautique. Pour la chromatisation fonctionnelle à caractère décoratif, le traitement de surface dans les autres secteurs industriels, et l'ETP, quatre années sont recommandées.

Cela veut dire que les clients directs et indirects des sept entreprises qui ont déposé des demandes d'autorisation peuvent continuer d'utiliser le trioxyde de chrome au-delà de la date d'expiration du 21 septembre 2017.

Les avis d'ECHA seront transférés à la Commission Européenne pour la prise d'une décision après l'été.

REVISED
PRESS RELEASE
MAY 28, 2015

The **CTACSub Consortium** (CTAC Submission Consortium) is pleased to announce that it has started its works. **The CTACSub joint application for authorization has been submitted to ECHA on May 11, 2015.**

CTACSub is a group of seven companies that was created on February 20, 2015 to jointly file applications for REACH authorization for specific industrial uses of chromium trioxide. CTACSub filed joint so-called 'upstream' applications for authorization for all uses for which draft applications for authorization (common data sets) were developed by the CTAC Consortium (in turn consisting of 150+ companies).

This early (one year before the so-called 'Latest Application Date' on March 21, 2016) joint upstream application is destined to assure the market that the major chromium trioxide (formulation) suppliers are well aware that the industrial use of this substance is essential for a large number of industries and that everything will be done so that the downstream users can continue to use chromium trioxide for their current uses provided adequate operational conditions and risk management measures are met. These current uses covered by the joint application are in addition to formulation of mixtures, functional plating, functional plating with decorative character, miscellaneous surface treatment, and passivation of tin-plated steel (for exact definitions, please see below).

In turn, this also ensures that articles and components manufactured using chromium trioxide can continue to be manufactured in and for the numerous sectors that utilize such articles in today's economy These sectors include aerospace, architecture, automotive, machinery, packaging, printing and sanitary.

Members of CTACSub are:

- Atotech Deutschland GmbH (formulator)
- Aviall Services Inc. The Netherlands Branch (affiliate of The Boeing Company), (importer of formulations)
- Bondex Trading Ltd. (importer)
- Cromital Spa (OR) (for and affiliate of Soda Sanayii A.S.)
- Elementis Chromium LLP (OR) (for Elementis Chromium Inc.)
- Enthone GmbH (formulator)
- Lanxess Deutschland GmbH (OR) (for Lanxess CISA (Pty) Ltd.) acting as Submitting Applicant for the joint application.

For additional information, please contact the CTACSub Consortium Manager uschliessner@jonesday.com, tel. +32-2-6451460.

Use Definitions (from Annex 1 of CTAC Consortium Agreement)[1]

(1) Formulation of mixtures

The formulation of chromium-based mixtures in liquid or solid forms using chromium trioxide combined with other chemical substances and/or compounds. The use definition is restricted to formulation for 'placing on the market for…' (e.g. a proprietary coating formulation). This use definition explicitly excludes the subsequent use of the mixtures. because these are considered as covered by Uses (2) – (8).

(2) Functional chrome plating

An industrial use, meaning the electrochemical treatment of surfaces (typically metal) to deposit metallic chromium using a solution containing chromium trioxide (amongst other chemicals), to enhance wear resistance, tribological properties, anti-stick properties, corrosion resistance in combination with other important functional characteristics. Such secondary functional characteristics are chemical resistance, able to strip, unlimited in thickness, paramagnetic, deposit not toxic or allergic, micro-cracked brightness. Process characteristics are closed loop processing, high speed, flexibility in size, plating of inner surfaces, low process temperature, surface can be machined, assemblability. Functional chrome plating may include use of chromium trioxide in pre-treatment and surface deposits unlimited in thickness but typically between 2μm and 5000 μm. Functional chrome coatings are widely used in many industry sectors.

(3) Functional chrome plating with decorative character

The electrochemical treatment of metal, plastic or composite surfaces to deposit metallic chromium to achieve an improvement in the surface appearance, level of corrosion protection and to enhance durability. In functional plating with decorative character, chromium trioxide is used to deposit a coating of typically 0.1-2.0 μm, or, where increased corrosion resistance is required, a 'micro cracked' chromium deposit at thicknesses of typically 0.5 - 2.0 μm, over a nickel undercoat. Functional plating with decorative character may include use of chromium trioxide in a series of pre-treatments and surface deposits. Functional plating with decorative character is used widely in automotive, plumbing, household appliances, bathroom, furniture and homeware applications. Functional plating with decorative character includes black chrome plating provided that there is no residual CrVI on the surface of the article at the detection limit[2], which has been used, for example, in solar panel manufacture, where deposits are porous and <1 μm in thickness.

(4) Surface treatment for applications in the **aeronautics and aerospace industries**, unrelated to Functional chrome plating or Functional plating with decorative character

This Use includes processes that convert the surface of an active metal or coat metal surfaces by forming/incorporating a barrier film of complex chromium compounds that protects the metal from corrosion and provides a base for subsequent treatments such as painting or bonding. This includes integrated process systems where chromium trioxide is used in a series of pre/main/post-treatments. Pre-treatment includes processes such as chemical polishing, stripping, dexodizing, pickling and etching of metals. Main-treatment includes processes such as conversion coatings, passivation and anodizing, deposition and other surface treatments where a chromium trioxide-based solution is used. Post-treatment includes processes such as rinsing, staining and sealing for final surface protection.

(5) Surface treatment **(except ETP)** for applications in **various industry sectors namely architectural, automotive, metal manufacturing and finishing, and general engineering**

This Use includes processes that convert the surface of an active metal or coat metal surfaces by forming/incorporating a barrier film of complex chromium compounds that protects the metal from corrosion, provides a base for subsequent painting, provides a chemical polish, and/or colors the metal. This includes integrated process systems where chromium trioxide is used in a series of pre/main/post-treatments. Pre-treatment includes processes such as chemical polishing, stripping, dexodizing, pickling and etching of metals or other materials. Main-treatment includes processes such as conversion coatings, passivation and anodizing, deposition and other surface treatments where a chromium trioxide-based solution is used. Specifically, this includes continuous coil coating of steel and passivation (e.g. zinc plating, copper foils), but not passivation of tin-plated steel. Post-treatment includes processes such as rinsing, staining and sealing for final surface protection.

(8) Passivation of tin-plated steel (ETP)

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1 Amended and consolidated version December 19, 2014. Use definitions of Use 6 (catalysts) and Use 7 (laboratory) are not repeated here because no draft authorization dossiers have been developed by CTAC for these uses.

2 EN 15205 is to be used as the standard of detection of chromium VI. If a Member wishes to use another standard, the Member has to prove that it is equally sensitive.