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COMMISSION IMPLEMENTING DECISION

of 16.5.2018

**granting an authorisation for certain uses of chromium trioxide under Regulation (EC)
No 1907/2006 of the European Parliament and of the Council (MTU Aero Engines AG)**

(ONLY THE ENGLISH TEXT IS AUTHENTIC)

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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/EC¹, and in particular Article 64(8) thereof,

Whereas:

- (1) Chromium trioxide (CT) 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 19 February 2016, MTU Aero Engines AG ('the applicant') submitted in accordance with Article 62 of Regulation (EC) No 1907/2006 an application for authorisation for the uses of chromium trioxide in functional chrome plating for aerospace applications for civil and military uses, comprising coating of new components for aircraft engines as well as maintenance, repair and overhaul work on aircraft engine components ('use 1') and in surface treatment for aerospace applications for civil and military uses, comprising treatment of new components for aircraft engines as well as maintenance, repair and overhaul work on aircraft engine components, unrelated to functional chrome plating ('use 2').
- (3) On 28 February 2017, the Commission received the opinions of the Committee for Risk Assessment (RAC) and the Committee for Socio-economic Analysis (SEAC) of the European Chemicals Agency² on the application pursuant to the second subparagraph of Article 64(5) of Regulation (EC) No 1907/2006.
- (4) In its opinion, 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 chromium trioxide is a non-threshold substance. In accordance with Article 60(3)(a) of Regulation (EC) No 1907/2006, Article 60(2) of that Regulation does not apply to that

¹ OJ L 396, 30.12.2006, p. 1.

² <https://echa.europa.eu/documents/10162/330d1042-d27b-75e3-263a-8f244a138637>
<https://echa.europa.eu/documents/10162/444cce88-93c0-dac6-e0ba-a128a984f8fd>

substance, and therefore an authorisation may only be granted on the basis of Article 60(4) of that Regulation.

- (5) In its opinions, RAC concluded that the risk management measures and operational conditions as described in the application are appropriate and effective in limiting the risk to workers and the general population that could potentially be exposed via the environment. However, due to the limited data and contextual information on worker exposure to chromium (VI) in the application, RAC recommended additional occupational exposure measurements, as well as measurements of environmental emissions of chromium (VI) to the air to be carried out and included in the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006. RAC also noted that the effectiveness of the implemented risk management measures could be further improved by replacing natural ventilation in the plating shops with general mechanical ventilation and, in the case of use 2, by installing local exhaust ventilation (LEV) at the plating bath of the Berlin site.
- (6) In its opinions, SEAC concluded that the overall socio-economic benefits arising from the uses of chromium trioxide applied for outweigh the risk to human health or the environment arising from those uses and that there are no suitable alternative substances or technologies for the applicant before the sunset date. The Commission, having evaluated the SEAC assessment, concurs with this conclusion.
- (7) Based on the RAC and the SEAC opinions, and in accordance with Article 60(4) of Regulation (EC) No 1907/2006, it is appropriate to authorise the two uses of chromium trioxide applied for, provided that the risk management measures and operational conditions described in the application and in particular in the chemical safety report³ are fully applied.
- (8) 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 twelve years for the two uses. The Commission, takes into account the relevant elements from the RAC and the SEAC's assessment, and in particular the RAC's assessment of the risk of the continued use of the substance, the fact that the socio-economic benefits of the continued use clearly outweigh the associated monetised risk, and the timeline required for the development and approval of a suitable alternative, should one become available, including the execution of several tests and the acquisition of the relevant certification of compliance with the aerospace sector requirements. Taking into account all these elements, the Commission concurs with the SEAC recommendations.
- (9) In view of the RAC and SEAC opinions, the Commission considers appropriate that, as regards the two uses of chromium trioxide applied for, the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 is set at twelve years as from the sunset date set out in Annex XIV to Regulation (EC) No 1907/2006.
- (10) 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 include a monitoring arrangement requiring the authorisation holder to submit, upon request, a succinct summary of those risk management measures and operational conditions in an official language of the Member States concerned.

³ <http://ec.europa.eu/DocsRoom/documents/21782>
<http://ec.europa.eu/DocsRoom/documents/21783>

- (11) This Decision does not affect the obligation of the authorisation holder to ensure that the use does not adversely affect human health or the environment pursuant to Article 1(3) of Regulation (EC) No 1907/2006. Furthermore, it does not affect either the obligation of the authorisation holder 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 or 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 Council⁴, or to prevent and reduce exposure in accordance with Article 5 of that Directive. Furthermore, this Decision is without prejudice to the application of the Union Directives in the area of health and safety at work, in particular Council Directive 89/391/EEC⁵, Council Directive 98/24⁶, Directive 2004/37, Council Directive 92/85/EEC⁷ and Council Directive 94/33/EC⁸.
- (12) This Decision is without prejudice to any obligation to comply with emission limit values set in accordance with Directive 2010/75/EU of the European Parliament and of the Council⁹ and Directive 2008/50/EC of the European Parliament and of the Council¹⁰, as well as with emission limit values set to achieve compliance with the environmental quality standards established both in Directive 2008/105/EC of the European Parliament and of the Council¹¹ and by Member States in accordance with Directive 2000/60/EC of the European Parliament and of the Council¹². 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.
- (13) 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,

⁴ 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).

⁵ 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, 29.06.1989, p. 1).

⁶ 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, 05.05.1998, p. 11).

⁷ 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).

⁸ Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJ L 216, 20.08.1994, p. 12).

⁹ 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).

¹⁰ 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).

¹¹ 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).

¹² 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).

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 and CAS No 1333-82-0), provided that the risk management measures and operational conditions described in the chemical safety report submitted pursuant to Article 62(4)(d) of that Regulation are fully applied:

Authorisation number	Authorised uses
REACH/18/7/0	Functional chrome plating for aerospace applications for civil and military uses, comprising coating of new components for aircraft engines as well as maintenance, repair and overhaul work on aircraft engine components
REACH/18/7/1	Surface treatment for aerospace applications for civil and military uses, comprising treatment of new components for aircraft engines as well as maintenance, repair and overhaul work on aircraft engine components, unrelated to functional chrome plating

Article 2

1. As regards the authorised uses of chromium trioxide, the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 shall expire on 21 September 2029.
2. The present authorisation shall cease to be valid on 21 September 2029 in case a review report in accordance with Article 61(1) of Regulation (EC) No 1907/2006 has not been submitted by 21 March 2028, unless a decision to withdraw the authorisation is adopted earlier in application of Article 61(2) and (3) of that Regulation.

Article 3

The following monitoring arrangements shall apply:

- (a) the authorisation holder shall submit, upon request, to the competent authority of the Member State where the authorised use takes place 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;
- (b) the authorisation holder shall conduct regular occupational exposure measurements related to the uses described in Article 1, including static and personal monitoring, as well as biomonitoring, based on relevant standard reference methodologies and protocols, representative of the range of tasks undertaken, where exposure to chromium (VI) is possible and of the total number of workers potentially exposed on each site;
- (c) the authorisation holder shall conduct measurements of environmental emissions of chromium (VI) to the air from all its sites, based, where available, on standard sampling and analytical methods;

- (d) the information gathered in the measurements referred to in points (b) and (c) and related contextual information shall be used to regularly review the effectiveness of the risk management measures and operational conditions, and to introduce measures to further reduce workers' exposure to, and environmental emissions of, chromium (VI). Information on measurements as well as the results of this review shall be documented and made available upon request to the national enforcement authorities of the Member State(s) where the authorised uses take place;
- (e) the results and contextual information of the measurements referred to in points (b) and (c), as well as the outcome and conclusions of the review and any actions taken in accordance with point (d), shall be included in the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006 and, upon request, shall be submitted to the competent authority of the Member State where the authorised uses takes place.

Article 4

This Decision is addressed to MTU Aero Engines AG, Dachauerstr. 665, 80995 München, Germany.

Done at Brussels, 16.5.2018

For the Commission
Elżbieta BIENKOWSKA
Member of the Commission

