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COMMISSION IMPLEMENTING DECISION

of 14.12.2018

**granting an authorisation for certain uses of chromium trioxide under Regulation (EC)
No 1907/2006 of the European Parliament and of the Council (FN Herstal S.A.)**

(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 is listed in Annex XIV to Regulation (EC) No 1907/2006 and is therefore subject to the authorisation requirement referred to in Article 56(1)(a) of that Regulation.
- (2) On 22 February 2016, FN Herstal S.A. and Manroy Engineering LTD submitted, in accordance with Article 62 of Regulation (EC) No 1907/2006, an application for authorisation for the industrial use of chromium trioxide in the hard chromium coating of military small- and medium-calibre firearms barrel bores and auxiliary parts subject to thermal, mechanical and chemical stresses, in order to provide hardness, heat resistance and thermal barrier properties, as well as corrosion resistance, adhesion and low friction properties ('use 1'). On the same date, FN Herstal S.A. and Browning Viana, Fabrica de Armas e Artigos de Desporto, S.A. submitted an application for the industrial use of chromium trioxide in the hard chromium coating of civilian firearms barrel bores and auxiliary parts subject to thermal, mechanical and chemical stresses, in order to provide a low friction coefficient as well as heat, corrosion and wear resistance properties ('use 2'). FN Herstal S.A., Manroy Engineering LTD and Browning Viana, Fabrica de Armas e Artigos de Desporto, S.A are referred hereinafter as 'the applicants'.
- (3) On 15 December 2016, the Commission received the opinions of the Committee for Risk Assessment (RAC) and the Committee for Socio-economic Analysis (SEAC) of the European Chemicals Agency on the applications² pursuant to the second subparagraph of Article 64(5) of Regulation (EC) No 1907/2006.

¹ OJ L 396, 30.12.2006, p. 1.

² <https://echa.europa.eu/documents/10162/89587891-7fc0-b994-d4c8-b2a02483060c>
<https://echa.europa.eu/documents/10162/5b5011c3-bb00-1df0-6d2d-5af04b112959>

- (4) 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 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 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 at the Herstal site (FN Herstal S.A. Belgium) for use 1 and at Herstal and Viana do Castelo (Browning, Portugal) for use 2 as described in the applications are appropriate and effective in limiting the risk to workers and to the general population that could be potentially exposed via the environment. However, RAC concluded that the risk management measures and operational conditions for use 1 at the Erith site (Manroy Engineering Limited) as described in the application are not appropriate and effective in limiting the risk to workers. Therefore, RAC recommended additional conditions for the authorisation.
- (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 in terms of their technical and economic feasibility for the applicant by the sunset date. The Commission, having evaluated the SEAC assessment, concurs with those conclusions.
- (7) Therefore, in accordance with Article 60(4) of Regulation (EC) No 1907/2006, it is appropriate to authorise the 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, as well as the conditions set out in this Decision 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 12 years for use 1 and at seven years for use 2. With regard to use 1, the Commission takes into account the relevant elements from the RAC and SEAC's assessments, and in particular that the risk management measures and operational conditions at the Herstal site are appropriate and effective in limiting the risk, that the conditions proposed by RAC are expected to address the exposure control concerns at the Erith site, the applicant's continuous research and development activities, the likelihood that substitution would not be possible within shorter timelines, the time necessary to implement a suitable alternative if one becomes available, as well as the fact that the socio-economic benefits outweigh the risk by a significant margin. With regard to use 2, the Commission takes into account the relevant elements from the RAC and SEAC's assessments, and in particular that the risk management measures and operational conditions are appropriate and effective in limiting the risk, the applicant's continuous research and development activities, the likelihood that substitution would not be possible within shorter timelines, the time necessary for development, implementation and qualification of a suitable alternative, as well as the fact that the socio-economic benefits outweigh the risk by a significant margin. The Commission concurs with the SEAC's recommendations.

³ <http://ec.europa.eu/DocsRoom/documents/20665/>

- (9) In view of RAC and SEAC's opinions, the Commission considers appropriate that, as regards the 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 12 years for use 1 and at seven years for use 2 as from the sunset date set out in Annex XIV to that Regulation.
- (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.
- (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 98/24/EC⁶, Directive 2004/37/EC, 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

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, 29.6.1989, 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, 5.5.1998, 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, 20.8.1994, 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

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) 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 Decision only applies, as far as it addresses a legal entity established in the United Kingdom, until the United Kingdom ceases to be a Member State.
- (14) 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 that the risk management measures and operational conditions described in the chemical safety report submitted pursuant to Article 62(4)(d) of that Regulation, as well as the conditions set out in this Decision are fully applied:

Authorisation number	Authorisation holder	Authorised use
REACH/18/19/0	FN Herstal S.A.	Industrial use of chromium trioxide in the hard chromium coating of military small- and medium-calibre firearms barrel bores and auxiliary parts subject to thermal, mechanical and chemical stresses, in order to provide hardness, heat resistance and thermal barrier properties, as well as corrosion resistance, adhesion and low friction properties.
REACH/18/19/1	Manroy Engineering LTD	
REACH/18/19/2	FN Herstal S.A.	Industrial use of chromium trioxide in the hard chromium coating of civilian firearms barrel bores and auxiliary parts subject to thermal, mechanical and chemical stresses, in order to provide low friction coefficient as well as heat, corrosion and wear resistance
REACH/18/19/3	Browning Viana, Fabrica de Armas e Artigos de Desporto, S.A.	

¹² 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).
 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).

properties.

Article 2

Concerning the authorised use with authorisation number REACH/18/19/1, the authorisation referred to in Article 1 shall be subject to the following conditions:

- (a) the authorisation holder shall review the feasibility of implementing local exhaust ventilation (LEV) and shall use respiratory protective equipment (RPE) without delay as a first measure until additional technical risk management measures are implemented to limit exposure to workers.

Furthermore, the authorisation holder shall apply risk management measures including the use of mist suppressants on the chrome plating baths, the replacement of natural ventilation with general mechanic ventilation and the installation of a specific air treatment system dedicated to minimisation of emissions to air. Those risk management measures shall be implemented without delay but no later than 14 June 2020.

- (b) the authorisation holder shall conduct regular occupational exposure measurements of chromium (VI) related to the use described in Article 1. Those measurements shall:

- (i) take place at least annually;
- (ii) be based on relevant standard sampling procedures and analytical methods;
- (iii) be representative of the range of tasks with possible exposure to chromium (VI) and of the total number of workers that are potentially exposed;
- (iv) comprise both static and personal inhalation exposure sampling;
- (v) include contextual information about the tasks with possible exposure to chromium (VI) on the sampling time related to shifts, the tasks performed and personal protection equipment (PPE) worn;

- (c) the authorisation holder shall use the information referred to in point (a) and gathered via the measurements referred to in points (b) to review the effectiveness of the risk management measures and operational conditions and to take action, as appropriate, to further reduce exposure;

- (d) the measures taken in accordance with point (a), the results of the measurements and the contextual information referred to in point (b), as well as the outcome and conclusions of the review and any action taken in accordance with point (c), shall be documented, submitted upon request to the competent authority of the Member State where the authorised use take place and included in the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006.

Article 3

1. As regards the authorised use 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 for the use with authorisation numbers REACH/18/19/0 and REACH/18/19/1.
2. As regards the authorised use of chromium trioxide, the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 shall expire on 21 September 2024 for the use with authorisation numbers REACH/18/19/2 and REACH/18/19/3.

3. The present authorisation shall cease to be valid on 21 September 2029 with regard to the holders of the authorisation identified by numbers REACH/18/19/0 and REACH/18/19/1 who have not submitted a review report in accordance with Article 61(1) of Regulation (EC) No 1907/2006 by 21 March 2028 and on 21 September 2024 with regard to the holders of the authorisation identified by numbers REACH/18/19/2 and REACH/18/19/3 who have not submitted a review report in accordance with Article 61(1) of Regulation (EC) No 1907/2006 by 21 March 2023, unless a decision to withdraw the authorisation is adopted earlier in application of paragraphs 2 and 3 of Article 61 of Regulation (EC) No 1907/2006.

Article 4

The following monitoring arrangements shall apply:

- (a) For all uses described in Article 1, the authorisation holders shall conduct regular measurements (at least annually) of emissions of chromium (VI) to the air (including fugitive emissions), according to standard sampling and analytical methods;
- (b) Concerning the authorised uses with authorisation numbers REACH/18/19/0, REACH/18/19/2 and REACH/18/19/3, the authorisation holders shall conduct regular occupational exposure measurements of chromium (VI). Those measurements shall:
- (i) take place at least annually;
 - (ii) be based on relevant standard sampling procedures and analytical methods;
 - (iii) be representative of the range of tasks with possible exposure to chromium (VI) and of the total number of workers that are potentially exposed;
 - (iv) comprise both static and personal inhalation exposure sampling;
 - (v) include contextual information about the tasks with possible exposure to chromium (VI) on the sampling time related to shifts, the tasks performed and personal protection equipment (PPE) worn;
- (c) the information gathered in the measurements referred to in points (a) and (b) shall be used to regularly review the effectiveness of the risk management measures and operational conditions and to take action, as appropriate, to further reduce workers' exposure to chromium (VI) and its emissions into the air;
- (d) the results of the measurements referred to in points (a) and (b), as well as the outcome and conclusions of the review and any action taken in accordance with point (c), shall be documented, submitted upon request to the competent authority of the Member States where the authorised uses take place and included in the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006.

Article 5

The authorisation holders 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.

Article 6

This Decision is addressed to

1. FN Herstal S.A., Voie de Liège 33, 4040 Herstal, Belgium;
2. Manroy Engineering LTD, Phoenix House Slade Green House, DA8 2HY, Erith, Kent, United Kingdom;
3. Browning Viana Fabrica de Armas e Artigos de Desporto SA, Lugar de Morenos – Neiva – Apartado 2, 4901 906, Vila Nova de Anha, Portugal.

Done at Brussels, 14.12.2018

For the Commission
Elżbieta BIEŃKOWSKA
Member of the Commission

