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COMMISSION IMPLEMENTING DECISION

of 10.2.2023

granting an authorisation under Regulation (EC) No 1907/2006 of the European Parliament and of the Council to Steel Color S.p.A. for a use of chromium trioxide

(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 uses of that substance are subject to the authorisation requirement in Article 56(1), point (a), of that Regulation.
- (2) On 25 November 2019, Steel Color S.p.A. ('the applicant') submitted an application in accordance with Article 62 of Regulation (EC) No 1907/2006 for authorisation for a use of chromium trioxide. The use for which authorisation was sought is the use of chromium trioxide as a colouring and hardening agent for stainless steel plates.
- (3) On 29 June 2021, the Commission received the opinions on the application adopted by the Committee for Risk Assessment (RAC) and by the Committee for Socio-economic Analysis (SEAC) of the European Chemicals Agency² and sent to it pursuant to Article 64(5), second subparagraph, of Regulation (EC) No 1907/2006.
- (4) RAC concluded in its opinion that it is not possible to determine a derived no-effect level for the carcinogenic properties of chromium trioxide in accordance with Section 6.4 of Annex I to Regulation (EC) No 1907/2006 and that, therefore, chromium trioxide is a substance for which it is not possible to determine a threshold for the purposes of Article 60(3), point (a), of that Regulation. As a result, Article 60(2) of Regulation (EC) No 1907/2006 does not apply to that substance and an authorisation may therefore only be granted with respect to that substance under paragraph 4 of that Article.
- (5) In its opinion, RAC concluded that the risk management measures and operational conditions described in the application, and further detailed by the applicants at RAC's

¹ OJ L 396, 30.12.2006, p. 1.

² <https://echa.europa.eu/documents/10162/87512e20-e16a-d154-d27d-27e574ccb129>

request, are appropriate and effective to limit the risk to workers, and to members of the general population who could potentially be exposed via the environment. However, in order to address some shortcomings in the occupational exposure estimation and to provide information on the trends in exposure and emissions over the authorisation period, RAC recommended to carry out monitoring programmes for occupational exposure to, and environmental release of, hexavalent chromium (Cr(VI)), as well as some measures for the review report. Having evaluated RAC's assessment, the Commission agrees with that conclusion and recommendations. However, the Commission notes that the estimated excess cancer risk values for workers are higher than for other comparable applications for authorisation for the use of Cr(VI) substances. Although the Commission acknowledges that those values are conservative estimates of the most likely excess risk values, taken for the purpose of carrying out risk-benefit analysis, it considers it appropriate to set out the measures concerning occupational exposure recommended by RAC as conditions for authorisation.

- (6) In its opinion, SEAC concluded that it has no reservations on the quantitative and qualitative elements of the applicant's assessment of the benefits and the monetised risks to human health associated with the continued use of the substance. Taking into account SEAC's assessment of the socio-economic analysis, RAC's conclusion that the risk management measures and operational conditions are appropriate and effective to limit the risk, the estimated monetised excess risk of cancer associated with the continued use in the order of tens of thousands of euro over the review period, the estimated monetised socio-economic benefits of continued use due to avoided loss of profits and jobs at minimum in the order of millions of euro over the review period, as well as any additional negative distributional impact, the Commission concludes that the applicant has demonstrated that the socio-economic benefits of continued use of chromium trioxide outweigh the risk to human health and the environment arising from these uses.
- (7) A suitable alternative should be safer, available, and technically and economically feasible. Where suitable alternatives are available in the Union, but not technically or economically feasible for the applicant or its downstream users, the applicant is required to submit a substitution plan. An alternative that provides the functionality and level of technical performance necessary for the use applied for should be considered to be technically feasible. Certain potential alternatives may provide the functionality but at some loss of performance or in a manner that involves technical compromises that would impair the functionality. In such cases, unless justified by particular circumstances, the Commission should not consider a potential alternative to be technically feasible for the applicant where the applicant has demonstrated that they, or their downstream users, are not able to accommodate such losses to performance or technical compromises by applying a reasonable additional effort, taking into account the circumstances of the case. Similarly, in order to be considered economically feasible, the use of the alternative should not lead to a negative economic impact of a magnitude that would jeopardise the economic viability of the operations related to the use applied for.
- (8) In its opinion, SEAC concluded that there were no suitable alternative substances and technologies available for the applicant by the time of adoption of the opinion. The Commission, after evaluating SEAC's assessment and all relevant information available, notes that there is at least one alternative to chromium trioxide providing the overall hardening and colouring functionalities for the use applied for that has been

implemented in the Union, which is commercially available and is expected to become also technically and economically feasible for the applicant in the future. However, the Commission also acknowledges that the applicant needs more time to finalise the substitution process by installing new production lines and optimise the production process before the alternative technology allows meeting all the technical criteria necessary to produce stainless steel panels in a range of colours required to comply with the quality standards, as well as to achieve the current level of production efficiency. Thus, the Commission considers that the identified alternative cannot be considered yet technically and economically feasible for the applicant. Therefore, the Commission agrees with SEAC's conclusion that there are no suitable alternatives for the applicant, but concludes that suitable alternatives are available in the Union.

- (9) In its opinion, SEAC concluded that the substitution plan submitted by the applicant is credible and consistent with the analysis of alternatives and the socio-economic analysis. The Commission, having evaluated SEAC's assessment, concurs with that conclusion. Therefore, the Commission considers that the applicant has discharged its burden of proof in demonstrating the absence of suitable alternative substances or technologies for the applicant.
- (10) Therefore, having regard to the conditions laid down in Article 60(4) of Regulation (EC) No 1907/2006, it is appropriate to authorise the use of chromium trioxide described in the application, provided that the risk management measures and operational conditions described in the chemical safety report, as well as the conditions set out in this Decision, are fully applied.
- (11) The Commission has based its assessment on all relevant scientific evidence currently available, as assessed by RAC and SEAC, and, after having carried out a detailed examination, based its conclusions on a sufficient amount of material and reliable information allowing it to conclude. Nevertheless, additional scientific evidence would allow the Commission to perform its assessment on a more robust or broad evidentiary basis in the future. Hence, it is appropriate to require additional exposure and emission information be generated.
- (12) In its opinion, SEAC recommended that the review period referred to in Article 60(9), point (e), of Regulation (EC) No 1907/2006 should be set until the end of 2028. The Commission agrees with that recommendation, taking into account the relevant elements from RAC's and SEAC's assessments and, in particular, RAC's conclusion that the risk management measures and operational conditions are appropriate and effective to limit the risk, SEAC's conclusions on the monetised risk to human health and on the socio-economic benefits of the continued use of the substance and the time necessary to optimise and finalise the implementation of the identified alternative.
- (13) The language used to describe the risk management measures and operational conditions in the application for authorisation may be different from the official language of the Member State where the use takes place. Therefore, in order to facilitate supervision and enforcement of compliance with the authorisation, it is appropriate to require the authorisation holder to submit, upon request, a brief summary of those risk management measures and operational conditions to the competent authority of that Member State in an official language of that Member State.
- (14) This Decision does not affect the obligation of the authorisation holder to ensure that a use of a substance does not adversely affect human health or the environment, having regard to the principle set out in Article 1(3) of Regulation (EC) No 1907/2006.

Furthermore, this Decision does not affect the obligation of the authorisation holder under Article 60(10) of that Regulation to ensure that the exposure is reduced to as low a level as is technically and practically possible or the obligation of the employer under Article 4(1), and Article 5, of Directive 2004/37/EC of the European Parliament and of the Council³ 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, and to prevent workers' exposure to a risk to their health or safety. This Decision does not affect the application of Union law in the area of health and safety at work, in particular Council Directives 89/391/EEC⁴, 92/85/EEC⁵, 94/33/EC⁶, 98/24/EC⁷ and Directive 2004/37/EC, as well as any national binding occupational limit values which may be stricter than the applicable limit values under Union law.

- (15) This Decision does not affect any obligation to comply with emission limit values or other requirements set out in accordance with Directive 2008/50/EC of the European Parliament and of the Council⁸ or Directive 2010/75/EU of the European Parliament and of the Council⁹, nor any obligation to comply with emission limit values set to achieve compliance with the environmental quality standards established by Member States in accordance with Directive 2000/60/EC of the European Parliament and of the Council¹⁰ or the environmental quality standards established in Directive 2008/105/EC of the European Parliament and of the Council¹¹. Compliance with the provisions of this Decision does not necessarily imply compliance with any emission limit values or environmental quality standards under any other provisions of Union law, which may include further or more onerous requirements.
- (16) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 133 of Regulation (EC) No 1907/2006,

³ 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).

⁴ 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).

⁵ 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).

⁶ 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).

⁷ 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).

⁸ 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).

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 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).

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).

HAS ADOPTED THIS DECISION:

Article 1

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

Authorisation number	Authorised use
REACH/23/1/0	As a colouring and hardening agent for stainless steel plates

The authorisation is granted subject to the risk management measures and operational conditions described in the chemical safety report¹², and to the conditions set out in this Decision.

Article 2

1. The authorisation shall be subject to the conditions set out in paragraph 2 to 7.
2. The authorisation holder shall carry out a monitoring programme for occupational inhalation exposure to Cr(VI). The measurements shall:
 - (a) take place at least annually. The frequency of the measurements should be sufficient to capture any potential increase in exposure of workers to Cr(VI);
 - (b) be based on relevant standard methodologies or protocols;
 - (c) ensure a sufficiently low limit of quantification;
 - (d) comprise personal and/or static inhalation exposure sampling;
 - (e) be representative of all the tasks with possible exposure to Cr(VI), the operational conditions and risk management measures for each of these tasks, and of the total number of workers that are potentially exposed;
 - (f) give specific attention to the manual tasks of workers contributing scenarios 1 and 8 of the chemical safety report;
 - (g) be recorded so as to include contextual information about the tasks performed during sampling.
3. The authorisation holder shall continue to carry out a biomonitoring programme for workers with potential exposure to Cr(VI).
4. The authorisation holder shall use the information gathered via the measurements referred to in paragraphs 2 and 3 and related contextual information to confirm and review, at least annually, the effectiveness of operational conditions and risk management measures in place. If needed, the authorisation holder shall introduce measures to further reduce workplace exposure to Cr(VI) to as low a level as technically and practically possible and in accordance with the hierarchy of control principles.

¹² <https://ec.europa.eu/docsroom/documents/46112>

The authorisation holder, in carrying out the review referred to in the first subparagraph, shall also verify the assessment of the combined exposure for the different groups of workers and, where necessary, revise it.

5. The authorisation holder shall finalise by 10 February 2024 and afterwards when new information becomes available, a study to assess the feasibility to implement a closed and automated transfer system for the refilling of the line tanks with chromium trioxide (workers contributing scenario 1 of the chemical safety report) and shall act in accordance with the outcome of that study.
6. The authorisation holder shall finalise by 10 February 2024 and afterwards when new information becomes available, a study to assess the feasibility to implement an automated rinsing system for the rinsing of the coloured and hardened plates (workers contributing scenario 8 of the chemical safety report) and shall act in accordance with the outcome of that study.
7. The authorisation holder shall document and maintain the information from the monitoring programmes referred to in paragraphs 2 and 3, including the contextual information associated with each set of measurements, as well as the outcome and conclusions of the review and studies and any action taken in accordance with paragraphs 4 to 6, and shall make that information, including pseudonymised or aggregated biomonitoring results, available, upon request, to the competent authority of the Member State where the authorised use takes place.

Article 3

1. The review period shall expire on 31 December 2028.
2. The authorisation shall cease to be valid on 31 December 2028 if the authorisation holder has not submitted the review report for that use in accordance with Article 61(1) of Regulation (EC) No 1907/2006 by 30 June 2027.

Article 4

1. The monitoring arrangements set out in paragraph 2 to 5 shall apply.
2. The authorisation holder shall carry out a monitoring programme for releases of Cr(VI) to air. The measurements shall:
 - (a) be carried out at least annually or more frequently to capture any potential increase in emissions of Cr(VI) following possible changes in the production process;
 - (b) be based on relevant standard methodologies or protocols and be representative of the operational conditions and risk management measures used at the site where the authorised use takes place.
 - (c) ensure a sufficiently low limit of quantification;
 - (d) be recorded so as to include contextual information associated with each of the measurements.
3. The authorisation holder shall use the information gathered via the measurements referred to in paragraph 2 and related contextual information to confirm and review, at least annually, the effectiveness of operational conditions and risk management measures in place. If needed, the authorisation holder shall introduce measures to

further reduce Cr(VI) emissions to the environment, to as low a level as technically and practically possible.

4. The authorisation holder shall document and maintain the information from the monitoring programme referred to in paragraph 2, including the contextual information associated with each set of measurements, as well as the outcome and conclusions of the review and studies and any action taken in accordance with paragraph 3, and shall make that information available, upon request, to the competent authority of the Member State where the authorised use takes place.
5. The authorisation holder shall document the steps taken to substitute Cr(VI) in accordance with the substitution plan, including information on the engagement with customers to accept alternative Cr(VI)-free solutions, any deviations from the initial plan and on contingency measures taken and shall make this documentation available, upon request, to the competent authority of the Member State where the authorised uses take place.

Article 5

Where the authorisation holder submits a review report, it shall include the information referred to in Article 2(7) as well as in Article 4(4) and (5).

Article 6

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

Article 7

This Decision is addressed to Steel Color S.p.A., Via Per Pieve Terzagni 15, 26033 Pescarolo Ed Uniti (CR), Italy.

Done at Brussels, 10.2.2023

For the Commission

Thierry BRETON

Member of the Commission

