

ON COMMISSION IMPLEMENTING DECISION PARTIALLY GRANTING AN AUTHORISATION FOR A USE OF CHROMIUM TRIOXIDE (CROMOMED S.A. AND OTHERS) UNDER REGULATION (EC) N° 1907/2006



To: Members of the REACH Committee

Brussels, 28 April 2020

Dear Member State Competent Authority representative,

The European Steel Association (EUROFER) would like to highlight the importance for our sector of the discussion that is foreseen on the upcoming REACH Committee meeting on the 30th of April, concerning a draft Commission implementing decision *partially granting an authorisation for a use of chromium trioxide (Cromomed S.A. and others) (D063690/02)*.

The applicants are service providers to the European steel industry. Major products from our industry currently rely indirectly on the use of chromium trioxide for the routine maintenance of the production tools that are paramount to the high-quality specifications placed on the steel strip surface. Such performance is expected by our demanding customers from industries such as the domestic appliance and automotive sectors. The durability of the rolling equipment of our members is also highly dependent on those regular maintenance operations involving chrome plating operations performed by the applicants; no alternative has yet been developed nor qualified for use.

The steelmaking finishing plants served by the applicants would have as only alternative, if they do not want to jeopardize the quality of their final products nor the effectiveness of their rolling tools, to organise logistic chains towards competitors of the applicants that would either not be submitted to the authorisation process (therefore located outside of the EEA) or those that may already have been authorised for this use. In any case, this is neither practical nor economically viable, and does not bring any benefit for the environment or public and worker health.

Furthermore, we would like to highlight that the applicants have demonstrated in their application for authorisation that the health risks for the concerned workers are kept under effective control by a high level of safety measures and no alternatives are available to the use of chromium trioxide for those servicing operations.

SEAC concluded in its opinion that there are no suitable alternative substances or technologies available. The Commission further clarifies in its Implementing Decision the description of the uses to be authorised and concludes that the applicant discharged its burden of proof in demonstrating the absence of suitable alternatives in this regard. Our members, many of them having extended expertise in this field and conducting research activities for many years to substitute this substance, confirm once again that this objective has unfortunately not yet been attained. Substitution will therefore not be possible for several years. This has also been recognized by the granting of an authorisation¹ for a

¹ Commission Implementing Decision C(2018) 654 of 9.2.2018 granting an authorisation for use of chromium trioxide under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (Hoogovens Court Roll Surface Technologies V.O.F.)

period of 12 years to a group of companies that are competitors of the applicants and are operating elsewhere in the European Union.

It is not the first time that the present Authorisation comes into discussion. The Commission, in its answer to the European Parliament² regarding a Resolution adopted in October 2019 about its Draft Implementing Decision, recalled what it takes for an alternative technology or substance to be considered as being *suitable* under the REACH regulation. A judgement of the European Court of Justice detailed the criteria laid in this regulation that are to be fulfilled to identify a suitable alternative³. From the assessments of SEAC and the Commission, carried in the light of those criteria, there is currently no such suitable alternative available. The Commission further answers the Parliaments concerns and justifies why this authorisation is in full compliance with the REACH regulation and should be granted.

The application has been submitted in November 2015. Since then, ample assessment has been conducted by the ECHA Committees RAC and SEAC and by the Commission. We hope that you will appreciate that their conclusions have not been taken lightly. We have no doubt that your own thorough assessment has led you to agree with the Commission conclusion, and we ask you to support it to allow its swift adoption and implementation.

However, should the Decision be further delayed by unsubstantiated opposition, it will lead to unwanted impacts:

1. There will be further **increased uncertainty** within supply chains;
2. The **risk management measures proposed** in the draft to control and monitor any risks will not be legally binding.

A rejection of the authorisation would have dire consequences. As we have seen before, the products directly impacted would be a very large share of the steel sheet material used amongst others by the automotive and domestic appliance sectors. The concerned steel mills themselves would see their operations profoundly affected and their output of high-quality products impaired for a period of several years, jeopardizing thousands of jobs. The supply disruptions on downstream sectors will also have very significant impact – millions of tonnes of steel consumed yearly would no longer be available on the EU market.

Therefore, we are requesting you to support the Implementing Decision partially granting the requested authorisation.

Thank you for your consideration.

² Commission response to text adopted in plenary: *Follow up to the European Parliament non-legislative resolution on Objection pursuant to Rule 112: partially granting an authorisation for a use of chromium trioxide (Cromomed S.A. and others)*, document SP(2020)20-0 of 26/02/2020, available on <https://oeil.secure.europarl.europa.eu/oeil/spdoc.do?i=40387&j=0&l=en>

³ Judgement of the General Court, T-837/16, recitals 72–74. Available on: <http://curia.europa.eu/juris/liste.jsf?language=en&num=T-837/16>