CTAC Consortium

PRESS RELEASE

February 4, 2015

The CTAC Consortium, a group of more than 150 companies formed in 2012 to jointly develop draft applications for REACH authorization of several uses of chromium trioxide, is pleased to announce that it has concluded its works. Chromium trioxide continues to be an essential compound for certain industrial processes and products pursued in the European Union by CTAC Members and their customers. Applications for REACH authorization for these uses of chromium trioxide will therefore be filed with ECHA.

The CTAC Consortium assisted by its consultants ENVIRON UK Ltd. and ENVIRON's partner BiPRO GmbH has developed draft applications for REACH authorization for the following uses of chromium trioxide:

Use No.	Use name[1]	Proposed review period
1	Formulation of mixtures	12 years+
2	Functional chrome plating	12 years
3	Functional chrome plating with decorative character	7 years
4	Surface treatment for applications in the aeronautics and aerospace industries (unrelated to Functional chrome plating or Functional chrome plating with decorative character)	12 years
5	Surface treatment (except 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)	7 years
8	Passivation of tin-plated steel (ETP)	4 years (bridging)

Companies that are not CTAC Members who wish to file individual applications for REACH authorization for one or several of these uses of chromium trioxide may purchase letters of access for the draft CTAC authorization dossier parts (analysis of alternatives, chemical safety report, socio-economic analysis) to adapt and complement them according to their needs for filing their applications for authorization with ECHA. Letters of access will be available as of February 9, 2015 from the CTAC Consortium Manager Jones Day at www.jonesdayreach.com.

In addition, several Members of CTAC and interested non-CTAC Members that act as importers / Only Representatives / formulators are currently in the process of building[2] a new follow-up Consortium to jointly file most likely in May 2015 so-called upstream applications for authorization for the uses listed above based on the CTAC authorization dossier parts. Authorizations granted at the upstream level will ease the burden for downstream users who wish to continue using chromium trioxide or chromium trioxide based mixtures without having to obtain their own authorizations. More information on this new so-called CTACSubmission Consortium ('CTACSub') is also available from Jones Day. For further queries, please contact Ursula Schliessner at uschliessner@jonesday.com.

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1 For the detailed use definitions from CTAC Consortium Agreement as last amended December 19, 2014, please see overleaf.

2 Deadline for sign-up of interested companies February 20, 2015.

Use Definitions (from Annex 1 of CTAC Consortium Agreement)[3]

(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,[4] 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

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[3] 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 for these uses.

[4] 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.

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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LICENSE AGREEMENT (Letter of Access Agreement) CTAC REACH Authorization
February 4, 2015

This License Agreement ("Agreement") is made between the Company as set out in Annex 1 (herein "Company") and the members of the CTAC REACH Authorization Consortium (herein "CTAC" or "the CTAC members") (each a "party" and collectively the "parties").

WHEREAS, the Company or its Only Representative[1] must obtain REACH authorizations for the uses of chromium trioxide and may use consultants to assist in the preparation of documents;

WHEREAS, CTAC has developed authorization dossier parts for the uses of chromium trioxide, pursuant to the Consortium Agreement as amended;

WHEREAS, the Consortium Agreement in its Article 10 provides that CTAC may issue rights to use or to refer to the CTAC Dossier(s) prepared for submission to ECHA to third parties, by means of a Letter of Access, as defined in Article 12 (1) of the Consortium Agreement;

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties intending to be legally bound, agree as follows:

Article 1 - DEFINITIONS

(1) *Affiliate(s):* Any person, and as far as the Company is concerned listed in Annex 1 hereto, which directly or indirectly through one or more intermediaries owns, controls, is controlled by, or is under common control with, another legal person. For the purpose of this definition, a legal person shall be deemed to 'control' another legal person if it has the direct or indirect power to direct or cause the direction of the general management and policies of another legal person whether through the ownership of securities or capital stock, voting stock, by contract or otherwise. A legal person shall presumptively be deemed to control another legal person if it owns, directly or indirectly through one or more intermediaries and whether legally or beneficially fifty per cent (50%) or more of the outstanding voting securities or capital stock or other comparable equity or ownership interest of such legal person.

(2) *Authorization:* means authorization pursuant to Title VII of REACH Regulation (EC) 1907/2006 as may be amended from time to time.

(3) *CTAC Dossier(s)*: Sets of Data jointly developed by CTAC, that may have common and individual parts per Substance related to the Uses concerned, and that may be adapted by the individual CTAC Members or third parties obtaining a Letter of Access for filing of their respective Authorization applications.

(3) *Data:* means the relevant parts of the CTAC Dossier(s) that the Company has decided to obtain a license to as per its choice pursuant to Annex 1 hereto and as prepared by CTAC.

(4) *Letter of Access:* A document granting the Company and its Affiliates the non-exclusive and non-transferable right to use the CTAC Dossier(s) for purposes of preparing, submitting and obtaining their Authorization of use of the Substance, against payment of a license fee. The Letter of Access shall remain valid also for the review of the Authorization but shall not

[1] In case the application for Authorization is filed by an Only Representative of a non-EU manufacturer, this Agreement must be concluded by the non-EU manufacturer. The Only Representative in this case is considered as an Affiliate under this Agreement for as long as his appointment remains valid.

entitle the holder to demand any update of the CTAC Dossier(s) for such review, unless a new license fee shall have been mutually agreed.

(5) *Purpose:* The license and the right to sub-license hereunder granted are limited to the sole purpose to prepare for the authorization of the uses of the Substance in compliance with REACH requirements for the uses within the scope of the CTAC Consortium, as set out in Annex 1 hereto.

(6) *Substance:* means chromium trioxide (EC 215-607-8).

(7) *Third Parties Concerned:* means any third party other than the Company or its Affiliates which either assists the Company and/or its Affiliates in the activities regarding authorization of use of the Substance or will use its results in the future for fulfillment of the Purpose, such as but not limited to consultants of the Company and/or its Affiliates.

Any other definitions shall be those of the REACH Regulation (EC) 1907/2006 where applicable.

Article 2 - RIGHTS TO DATA

(1) License - Subject to the terms and conditions set forth herein, CTAC grants the Company and its Affiliates a worldwide, non-exclusive, non-terminable and non-transferable (in accordance with the terms and conditions of this Agreement and subject to (2) and (3) below), license to use, inspect, possess, submit, disclose, summarize, reference and/or cite (collectively, the foregoing hereinafter referred to as "use") the Data: (a) to prepare, maintain or support REACH Authorization of the uses of the Substance as chosen pursuant to Annex 1 hereto with or before ECHA and the European Commission; (b) with regulatory activities of ECHA, the European Commission or the competent authorities of EU Member States or other EEA countries in conjunction with Authorization of use of the Substance as chosen; (c) in connection with any proceedings before ECHA, any governmental entity, regulatory authority or court in the EU and other EEA countries; and (d) for internal use.

(2) Rights for third parties - In addition, CTAC grants the Company and its Affiliates the right to sub-license as the case may be against or without compensation to any Third Party Concerned. Those Third Parties Concerned cannot be granted any rights that go beyond the rights that CTAC has granted hereunder pursuant to (1) above.

(3) Limitation of Rights – No rights are granted other than those set forth under (1) and (2) above.

Article 3 – COMPENSATION - EXECUTION

(1) The rights under Article 2 above are granted against compensation set out in Annex 1 hereto determined by CTAC. Compensation shall be wired to an account communicated by the CTAC Consortium manager. All payments due hereunder shall be net payments, i.e. free of any bank or transfer charges or similar charges and without deduction of any taxes, levies or other dues payable. If payer is required to withhold any tax or to make any other deduction from any such payments, then the said payments shall be increased to the extent necessary to ensure that, after making of the required deduction or withholding, payee receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which payee would have received and so retained had no such deduction or withholding been made or required to be made (gross-up amount). If upon application of the beneficiary any withholding tax can be reduced, or refunded, or an exemption from withholding tax is granted, payer shall file on behalf of payee for such reduction, refund or exemption. Payee shall render any assistance to payer to obtain such withholding tax reduction, refund or exemption. Payer shall be entitled to any refund of withholding taxes.

Indirect Taxes – including but not limited to value added tax ('VAT'), goods and service tax (GST), service tax, business tax – as applicable pursuant to the relevant tax law, shall be borne by payer. However, payer is entitled to withhold any payment of indirect taxes unless payee has provided payer with a sufficient invoice for purposes of indirect taxation.

(2) The Data shall be made available to the Company within 5 (five) work days after payment pursuant to (1) above.

Article 4 - TERM AND TERMINATION

(1) Term - The term of this Agreement shall begin on the date payment of the sums due pursuant to Article 3 (1) of this Agreement is received by the CTAC Consortium Manager. The term shall extend until December 31, 2030, unless terminated as provided herein or unless the Company or its Affiliates no longer retain a valid Authorization for the use of the Substance subject to this Agreement and chosen pursuant to Annex 1.

(2) Transfer - Notwithstanding anything to the contrary contained herein, in the event that either CTAC or the Company terminate their activities and dissolve, the rights and obligations hereunder shall transfer jointly to the individual legal entities previously covered by them. By way of clarification, it is expressly understood that the fact that a member's membership in CTAC terminates, shall not, in and of itself, constitute or give rise to a breach of this Letter of Access or a termination of this Letter of Access or the rights granted hereunder.

(3) Immediate Termination – CTAC is entitled to terminate the Agreement with immediate effect upon late or non-payment of the sums due under Article 6 (1) of the Agreement.

(4) Articles 5, 6 and 7 survive the termination of this Agreement.

Article 5 – OWNERSHIP OF INFORMATION AND CONFIDENTIALITY

(1) This Agreement does not grant any ownership rights or change existing ownership rights to any of the Data provided under this Agreement, in whatever form and whenever.

(2) The Company or its Affiliates or Third Parties Concerned may not use the Data to obtain any intellectual property rights and neither this Agreement nor any disclosure of Data shall be deemed by implication or otherwise to vest the Company or their Affiliates or Third Parties Concerned any present or future rights in any patents, trade secrets or property rights in data belonging to CTAC or its members.

(3) The Company and its Affiliates may disclose the Data only towards the ECHA and European Commission and only to the extent required to meet the Purpose, but for no other purpose.

Save for the above, the Company, its Affiliates, and any Third Parties concerned undertake to keep the Data secret and confidential and disclose them only

(a) to their officers or employees to the extent required to pursue the Purpose and only after these persons have agreed to be bound by the confidentiality terms set out herein, unless they are already subject to similar confidentiality terms under any agreement relating to their employment;

(b) to external advisors or consultants to the extent required to pursue the Purpose and only after these persons have agreed to be bound by the confidentiality terms set out herein or similar confidentiality terms under their service agreements;

(c) to the extent required by mandatory law, including Article 119 (1) REACH.

The Company and its Affiliates shall advise CTAC immediately in writing of any disclosure made by them or a third party of the Data, as well as of any request by competent authorities relating to the disclosure of the Data.

Disclosure of the Data as required for legal and/or regulatory purposes including REACH shall only take place in a form (for example short summaries where possible) reflecting the minimum information required to be disclosed.

Article 6 – DAMAGES

(1) Any breaches of the Company's obligations under Articles 2 and 5 of this Agreement shall entitle CTAC to claim a one-time payment per breach equal to the amount of compensation pursuant to Article 3 of the Agreement plus any damages CTAC or its members may have due to the breach, both due and payable immediately within 5 calendar days upon presentation by CTAC of adequate documentation or affidavit of the breach.

Article 7 - MISCELLANEOUS

(1) Waivers - No term or condition of this Agreement shall be deemed to have been waived by either party unless the waiver is in writing and signed by both parties or their duly authorized representative.

(2) Notices - Any notice required or desired to be served, given or delivered hereunder shall be in writing, and shall be deemed to have been validly served by registered mail, with the date of postage as applicable date to the addresses communicated by the parties pursuant to the conclusion of this Agreement.

(3) Liabilities and Inspection - It is the individual responsibility of the Company to assess the Data that are made available and to comply with REACH. No warranty for acceptance of the CTAC Dossier(s) or Data it contains by ECHA and the European Commission is given. To this effect, the Company will have had the possibility, before entering into this Agreement, to inspect at its own cost the CTAC Dossier(s) at the offices of the Consortium Manager during business hours upon prior appointment. The Company and its Affiliates assume the full responsibility for their own use of the Data received from CTAC. CTAC gives no warranty for the accuracy, completeness or acceptance by the ECHA or European Commission of the Data. None of the parties, their members or their Affiliates shall be held liable for any direct, indirect or consequential loss or damage incurred by any party and/or its members in connection with the activities contemplated in this Agreement, unless caused by gross negligence or willful misconduct.

(4) Governing Law - Arbitration - Disputes - This Agreement shall be interpreted, and the rights and liabilities of the parties hereto, whether arising in contract or tort and howsoever pertaining to the parties' relationship, shall be determined in accordance with the laws of Belgium. All controversies and claims shall be resolved by mandatory binding arbitration pursuant and subject to the current commercial dispute rules of the ICC by one sole arbitrator appointed by mutual consent of the parties. The duty to arbitrate shall extend to any officer, employee, agent, or subsidiary making or defending any claim between the parties. The arbitration shall be held in a location best suited for the resolution of the dispute in light of the convenience of the parties and their documents and witnesses, or failing agreement on such place, in Brussels, Belgium. The language of the arbitration shall be English. The arbitrator's decision and award shall be final and binding and may be entered in any court having jurisdiction thereof. Each party shall pay all of its associated costs, expenses and attorney's fees, and the parties shall share equally the cost of the arbitrator and any accountants or advisors which the parties agree to employ for the benefit of the arbitrator.

(5) Interpretation - Section Headings - If any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. The invalid provisions are to be replaced retroactively by provisions which come closest to achieving the objectives. The Section headings provided herein are for convenience only and shall have no force or effect upon the construction or interpretation of any provision hereof.

(6) Entire Agreement - This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties.

(7) Amendments - No amendment to this Agreement shall be binding upon either party unless set forth in writing or confirmation signed by both parties hereto.

(8) Assignment - Neither this Agreement nor any interest herein may be assigned, pledged, or transferred without the prior written consent of the other party, which consent shall not unreasonably be withheld, conditioned or delayed.

(9) Trade Sanctions - Each party shall comply with all relevant export, import, and sanctions laws, regulations, orders, and authorizations to include without limitation, the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), and regulations and orders administered by the Treasury Department's Office of Foreign Assets Control. Such performance shall apply to the export, re-export and import of controlled technology, data, software, services, and/or hardware. Accordingly, parties shall not transfer Data without the appropriate government export authorization. Each party shall be individually responsible for its compliance with any applicable export or import laws and regulations. No party shall be required to indemnify another party with regard to export control compliance, and in particular with regard to the sharing, transmission, acceptance or receipt of export or import controlled technical data. CTAC reserves the right not to issue or to revoke with immediate effect the Letters of Access granted hereunder and to terminate this Agreement if it or its members could be considered to be in violation of such trade sanctions.

(10) Compliance – The parties shall at all times comply with the applicable laws, including EU and national competition law.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate in their respective names and by their respective representatives pursuant to due authorization.

For THE COMPANY

By: _____

Title: _____

Date: _____

Company stamp:

For the CTAC MEMBERS

By: _____

Title: Consortium Manager CTAC Consortium

Date: _____

Annex 1 – Details of Application

Identification

Company: .....

.....

REACH-IT UUID Number: .....

Company reference name or number (optional): .....

VAT number: .....

If you do not fill in a VAT number, you will be charged 21%.

Address: .....

.....

Postal Code: ..... City: ..... Country: .....

Please give full details of person authorized to make the application:

Mr ☐ Ms ☐ Dr ☐

Last Name:..... First Name:.....

Phone Number: ..... Fax Number: .....

E-mail address: .....

Affiliates:

.....
.....
.....
(List all affiliates of the Licensee to be covered)

Only Representative:

……
……
(In case the Licensee is a non-EU Manufacturer, name and contact details of Only Representative plus his UUID number must be listed here)

Invoicing Details

Is the **company to be invoiced** the same as the legal entity applying for the license?

a. ☐ Yes

b. ☐ No

If no, please give full company details of legal entity to be invoiced:

Company: .....

VAT number: .....

If you do not fill in a VAT number, you will be charged 21%.

Address: .....

.....

Postal Code: ..... City: ..... Country: .....

Scope of the License

In each case the License covers the Chemical Safety Report, Analysis of Alternatives, and Socio-Economic Analysis elaborated by CTAC for common use, in word format. The Company is responsible for adapting and complementing these documents to its own needs. The Company is responsible to obtain its own copyrights for any literature referenced. Access to and copies to Data sources used and referenced in the CTAC Dossier(s) (such as R&D reports, exposure data etc.) are not within the scope.

(Licensee to tick the relevant boxes)

Use	Tick Box	Price
(1) Formulation of mixtures		**PRICES WILL BE RELEASED ON FEBRUARY 9, 2015**
(2) Functional Chrome Plating (recommended review period 12 years)		
(3) Functional Plating with Decorative Character (recommended review period 7 years)		
(4/5) Other Surface Treatment Aerospace (recommended review period 12 years)		
(4/5) Other Surface Treatment Various Sectors (recommended review period 7 years)		
(8) Passivation of Tin-Plated Steel (ETP) (bridging application 4 years)		

Uses:

(1) 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) 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) The electrochemical treatment of metal, plastic 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 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,** 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, 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

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

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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CONSORTIUM AGREEMENT FOR PURPOSES OF REACH AUTHORIZATION CHROMIUM TRIOXIDE

This Consortium Agreement (hereinafter referred to as "Agreement") is made effective by and among the undersigned parties set out in Annex 3.

Preamble

WHEREAS, the Members are legal or natural persons that qualify as applicants for authorization of Chromium trioxide under REACH[1], directly or indirectly through their Affiliates, and have signed this Agreement;

WHEREAS, Chromium trioxide will likely be listed on REACH Annex XIV (substances the use and marketing of which are subject to authorization);

WHEREAS, the current uses of Chromium trioxide are manifold, they may not be easily replaceable, and information and know-how on uses is held by many different stakeholders;

WHEREAS, where legally and practically possible, therefore resources and knowledge should be pooled;

WHEREAS, several companies involved in the importation and use of Chromium trioxide in the EU entered into a Memorandum of Understanding in August 2011 creating a Task Force for a limited duration of five months ('Phase 1') to explore whether and to which extent they could cooperate in case Chromium trioxide would be listed on Annex XIV REACH;

WHEREAS, Phase 1 consisted of two deliverables: (1) a technical consultant was engaged who collected the known uses and who made a proposal for a sensible grouping (categorization of uses); and (2) the present Consortium Agreement has been drafted to organize the collaboration of interested parties for 'Phase 2';

WHEREAS, the Members agree to limit their activities under this Agreement to sharing and developing data for purposes of REACH authorization and agree not to disclose to, or discuss or exchange with, one another, or any parties to which their discussions and/or cooperation may subsequently be extended, any competitive or otherwise sensitive market information (such as, by way of example but not of limitation, information concerning prices, customers, raw material costs, manufacturing costs, marketing or sales plans, business or product development plans and profit margins). Within this aim, they shall act in accordance with antitrust rules which are attached as Annex 2;

NOW, THEREFORE, in consideration of the mutual agreements and undertakings contained herein, the Members agree to form a Consortium and agree as follows:

[1] EU Regulation 1907/2006, as may be amended from time to time.

Article 1 - DEFINITIONS

(1) *Agreement:* The present Agreement among the Members.

(2) *Affiliate*: Any legal or natural person, which directly or indirectly through one or more intermediaries owns, controls, is controlled by, or is under common control with, another legal person. For the purpose of this definition, a legal person shall be deemed to 'control' another legal person if it has the direct or indirect power to direct or cause the direction of the general management and policies of another legal person whether through the ownership of securities or capital stock, voting stock, by contract or otherwise. A legal person shall presumptively be deemed to control another legal person if it owns, directly or indirectly through one or more intermediaries and whether legally or beneficially fifty per cent (50%) or more of the outstanding voting securities or capital stock or other comparable equity or ownership interest of such legal person. A list of current Affiliates is set out in Annex 3. Annex 3 may be updated by the Manager upon notification of a Member.

(3) *Authorization*: Authorization pursuant to Title VII of REACH.

(4) *Authorization Dossier(s)*: Sets of Data jointly developed by the Consortium, that may have common and individual parts per use, and that may be adapted by the individual Members or third parties obtaining a Letter of Access for filing of their respective Authorization applications.

(5) *Chairperson*: Natural person appointed and having the tasks as per Article 7 (12).

(6) *Confidential Information:* Shall include all information within the scope of Article 6.

(7) *Consortium:* Cooperation of Members as contemplated under this Agreement.

(8) *Customer(s):* Customers of Members; or customers of Customers of Members. Customers are not considered third party(ies) unless otherwise stated herein.

(9) *Data:* Studies and other test data and information made available to the Consortium by a Member, or by third parties, or generated / determined by the Consortium within the framework of this Agreement, including but not limited to chemical safety report, assessment of alternatives, substitution plan, use description, justification for not considering certain risks, and socio-economic assessment.

(10) *Effective Date:* March 15, 2012.

(11) *European Union (EU)*: the territory[2] of the European Union (EU), which is comprised of the

[2] Means the 'customs' territory of the Community as defined in the REACH Guidance for the Navigator. The customs territory of the Community comprises the territory of: Austria; Belgium, Bulgaria, Cyprus, The Czech Republic, Denmark (except the Faroe Islands and Greenland), Germany (except the Island of Helgoland and the territory of Büsingen), Estonia, Finland (including the Aland Islands), France (except New Caledonia, Mayotte, Saint-Pierre and Miquelon, Wallis and Futuna Islands, French Polynesia and French Southern and Antarctic Territories), Greece, Hungary, Ireland, Italy (except the municipalities of Livigno and Campione d'Italia and the national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio), Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovenia, The Slovak Republic, Spain (except Ceuta and Melilla), Sweden, The United Kingdom of Great Britain (including Northern Ireland and the Channel Islands and the Isle of Man). The customs territory of the Community includes the territorial waters, the inland maritime waters and the airspace of the Member States and the territory of the Principality of Monaco, except for the territorial

current twenty-seven Member States, as well as any future Member State of the EU. As and when Iceland, Liechtenstein and Norway as members of the European Economic Area implement REACH, they shall be covered by the term EU.

(12) *Letter of Access:* A document granting a third party a non-transferable right of referral and/or use pursuant to Article 63 REACH as the case may be *of the Authorization* Dossier against payment of a license fee. The Letter of Access shall remain valid also for the review of the authorization but shall not entitle the holder to demand any update of the Authorization Dossier for such review, unless a new license fee shall have been mutually agreed among the parties.

(13) *Manager*: Person or entity appointed and having the tasks as per Article 7 (18).

(14) *Member:* Legal or natural persons that qualify as applicants for authorization of the Substance under Title VII REACH, directly or indirectly through their Affiliates, and have signed this Agreement and made in time all payments hereunder due upon signature. This shall include Only Representatives pursuant to Article 8 REACH, should such be considered by ECHA[3] to qualify as applicants for Authorization.

(15) *Member in good standing:* A Member is considered to be in good standing as per Article 7 (2) if (1) there is no outstanding uncured notice of default (in accordance with Article 12 with respect to such Member); and (2) the Member concerned has not given a notice of withdrawal (in accordance with Article 4).

(16) *Steering Committee*: Decision making body of the Consortium which consists of a representative of each Member. Annex 4 contains a list of the representatives and deputies.

(17) *Substance:* Chromium (VI) trioxide (EC 215-607-8) with the substance sameness parameters as registered under REACH.

(18) *Trustee:* Manager or other independent third party appointed for purposes of development and processing of information with whom confidentiality agreement will be concluded.

(19) *Use*: The categories of uses set out in Annex 1 as defined there under, which may be further broken into subcategories or amended per decision of the Steering Committee.

To the extent not otherwise defined herein, the definitions in Article 3 of REACH shall apply to this Agreement.

Article 2 - SCOPE AND PURPOSE - GENERAL OBLIGATIONS

(1) The Consortium formed under this Agreement shall be formed on the Effective Date of this Agreement between at least two Members for the principal purpose of jointly developing and preparing those parts of the Authorization Dossiers that the Members agree should be prepared jointly, including chemical safety report, analysis of the alternatives, substitution plan, socio-economic analysis, and justification for not considering risks to human health pursuant to Article 62(4) and (5) REACH and any guidance adopted by ECHA.

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waters, the inland maritime waters and the airspace of those territories which are not part of the customs territory of the Community as listed above.

[3] European Chemicals Agency.

(2) The Members undertake to cooperate and share human and financial resources for the above purpose. In particular, they undertake to pursue jointly the following objectives:

a) reviewing and sharing existing Data, filling of data gaps and sharing of Costs incurred in developing missing Data on the Substance and its alternatives, in accordance with the provisions of this Agreement for the use categories specified in Annex 1;

b) development of those parts of the Authorization Dossiers set out in Article 62(4) REACH that are agreed to be developed jointly within the Work Plan of the Consortium, as may be amended from time to time;

c) gathering information on use and exposure scenarios and other necessary Data where necessary;

d) obtaining and issuing licenses for use of Data and the Authorization Dossier(s) where necessary in pursuance of the purpose of this Agreement.

(3) The Authorization Dossier shall be ready for individual Members and issue of Letters of Access at the latest six (6) months before the latest application date set in Annex XIV REACH.

(4) The cooperation shall continue beyond the latest application date set in Annex XIV REACH so as to take account of observations made during the Authorization procedure and to be able to cooperate in case any Authorization decision sets review dates. However, any cooperation of the Members for review of authorizations shall be subject to a Decision of the Steering Committee involving those Members interested in such continued cooperation. Any such Decision shall not have an effect on the other Members. All Costs related to such review shall be considered Use Costs according to Article 11 (2) and (4), not Common Costs pursuant to Article 11 (2) and (3).

(5) This Agreement establishes and defines the respective rights, obligations, and mutual promises among the Members with respect to such cooperation.

(6) Each Member remains responsible on its own to comply with REACH, including to critically assess the Authorization Dossier.

(7) The Members recognize that any activities carried out under this Agreement have to be carried out in full compliance with applicable competition laws, in particular with Articles 101 and 102 of the Treaty on the Functioning of the European Union. The Members explicitly agree to observe the Code of Conduct (hereinafter the 'Code of Conduct') attached as Annex 2 to this Agreement including CEFIC REACH competition law compliance guidance. The Code of Conduct shall be complied with at all times by the bodies of the Consortium, the Members , and any outside consultants and/or experts that may be retained from time to time by the Consortium. Any contractors engaged by Members shall be contractually obliged to comply with EU competition law. Affiliates shall comply with the same rules as Members.

The objectives and activities of the Consortium shall at all times comply with the applicable laws of the EU, its Member States and other jurisdictions where applicable.

Article 3 - MEMBERSHIP

(1) Membership in the Consortium shall commence by execution of this Agreement as per Article 15 (8) as of the Effective Date and shall be effective upon payment of all payments due upon membership. Simultaneous with execution of this Agreement, the Member shall notify the Manager of the Uses for which it will seek participation. A Member may revise its Use notification within ninety (90) days of the Effective Date. If the Member has no remaining Use interest due to this revision, the Member shall have the right to leave the Consortium at that time. Thereafter, a Member may notify the Manager of additional Uses for participation only.

(2) Membership shall be open to any legal or natural persons active, directly or indirectly through their Affiliates in the manufacturing and/or import, and/or use of Substance. Membership shall also be open to Only Representatives, in as far as ECHA shall consider them as eligible as Authorization applicant.

(3) Members shall have the rights and obligations set out in this Agreement and shall contribute to all activities of the Consortium in accordance with its provisions.

(4) In view of the deadlines that will be set for Authorization applications, Members are aware that strict adherence to any working deadlines and procedures set by the bodies under this Agreement is a necessary and indispensable membership condition, failing which a Member can be expelled by decision of the Steering Committee taken in accordance with Article 4 (1) (b) of this Agreement.

(5) Third parties that wish to apply for Authorization of the Substance but do not become Members by the Effective Date may obtain access rights to the Authorization Dossier(s) developed hereunder via a Letter of Access granted pursuant to Article 10 of this Agreement.

Article 4 - WITHDRAWAL AND TRANSFER OF MEMBERSHIP

(1) A Member withdraws from the Consortium by termination or through exclusion from the Consortium.

a) Termination is permissible in writing at the end of a calendar year with a notice period of six (6) months, for the first time for December 31, 2013.

b) The Steering Committee is entitled to exclude a Member by 2/3 majority decision of all Members with immediate effect in the event of a material breach of this Agreement. The Member shall have the right before such Steering Committee decision to remedy any material breach that can be remedied. As ‘material breach’ are considered any violations of the obligations concerning confidentiality, payment (if not cured within thirty (30) days from the date of default pursuant to Article 12 plus 10% interest), use of Data and/or the Authorization Dossier outside the provisions of this Agreement, Article 3 (4), and any violations of obligations assigned to Member(s) under the Work plan pursuant to Annex 5 of this Agreement. A Member who has failed to make payments within sixty (60) days after due date shall automatically cease to be a Member without the necessity of further Steering Committee action.

c) Membership shall also automatically terminate with immediate effect in the event of a Member being declared bankrupt, or upon completion of winding-up procedures.

d) In the event of termination according to para. (a) and (c) or exclusion according to para. (b), payment obligations which have arisen up until that point in time, including for currently generated Data approved by the Steering Committee prior to the receipt of the withdrawing Member's notice of withdrawal, must be met. The rights (related to information according to Articles 8 and 9 of this Agreement) which have been acquired up until the point in time of ending of the membership shall persist, provided that the Member meets all related payment obligations. The withdrawing Member shall not have any ownership or Authorization Dossier rights for Data completed after the date of the Member's notice of withdrawal. However, with regard to Data currently being generated to which the exiting Member committed, the exiting Member shall financially contribute to all further Costs until the Data is completed. Obligations specified in Article 9 (2) of this Agreement persist for a period of twelve (12) years following the Member's, or third party's submission to ECHA of the Authorization application.

e) The withdrawal/exclusion of a Member will not result in the termination of the Consortium. After a Member has been excluded/has withdrawn, the remaining Members shall, subject to (d) above, take over the withdrawing/excluded Member's share of any financial obligations under this Agreement and they shall retain all rights to Existing Data contributed by the exiting Member.

(2) A Member shall be entitled to transfer its membership, including all rights and obligations, to another legal or natural person subject directly or indirectly to authorization of the Substance. Such transfer requires approval by a 2/3 majority vote of the Steering Committee. The new Member will take over all rights and obligations (including outstanding financial obligations) of the previous Member in relation to the Substance. The consent requirement does not apply to the transfer of membership to an Affiliate in the event of restructuring within a group of companies.

A Member in good standing may also assign its membership in the Consortium without approval by the Steering Committee provided that at the time it assigns such membership it also assigns to the same legal or natural person all its business related to the Substance.

Both paragraphs above shall be considered to include assignment of an Only Representative to another Only Representative for the same non-EU Principal or to the non-EU Principal previously represented should this non-EU Principal become established in the EU. It shall equally include assignments by an Only Representative to another Only Representative in follow-up to an assignment of the business related to the respective Substance(s) to another Principal, all subject to the condition that ECHA considers Only Representatives eligible for authorization.

In all cases above, it is understood that assignment of the membership for all of the Substance's business (complete assignment) does not require approval, whereas assignment with regard to specific Uses of the Substance (partial assignment) does require approval. This approval requirement is considered necessary because partial assignment increases the number of Members (the previous Member remaining a Member for some Uses of the Substance) and is therefore more complicated in terms of assessing rights and Costs.

Unless otherwise specified above, a Member may not transfer a partial interest in the Consortium.

An assignment shall not be effective until the assignee agrees in writing to assume the responsibilities of the assignor in accordance with this Agreement, including but not limited to any outstanding financial obligations.

(3) The transfer of individual rights and obligations arising from membership is excluded. This also applies to financial claims.

Article 5 - LIABILITY

(1) Members shall only be liable to another Member or Members in connection with the activities contemplated in this Agreement in case of gross negligence and willful misconduct. They shall not be liable for consequential loss, damage and lost profits. This limitation of liability does not apply in case of claims for death, personal injury or willful misconduct. No warranty for acceptance of an Authorization Dossier(s) by ECHA or granting of an authorization by the European Commission is given.

(2) In accordance with applicable law, each Member shall be individually liable vis-à-vis third parties within the scope of his/her liability, if any.

(3) Members shall jointly fund their defense and damages in case of third party claims against the Consortium or any of its Members in relation to work conducted by the Consortium. If such a claim is brought, the Member must immediately inform the Manager who shall arrange for the defense to be organized.

(4) Each Member having submitted Data which has been used in the Authorization Dossier represents to the others (i) that it is the rightful owner or grantee of the Data and free to grant rights therein, (ii) that, to the knowledge of this Member, these Data do not infringe on the rights, in particular, but without limitation, intellectual property rights, of any third party and (iii) that this Member has not received a claim or notice of any alleged infringement.

Article 6 - CONFIDENTIALITY

(1) As used in this Agreement, “Confidential Information” shall include, but not be limited to, all scientific, statistical, commercial or technical data, including but not limited to, the composition, characteristics, properties of the Substance(s) and processes and applications related to the Substance, as well as any information concerning the business of any of the Members and any subsidiary and/or Affiliates thereof that is (i) disclosed in writing and marked with the words “Confidential”, “Proprietary” or words with a similar meaning, or (ii) disclosed orally and, at the time of disclosure, the disclosing Member identifies it as information that will be used for the purpose described above. The Members shall maintain confidentiality vis-à-vis third parties concerning all unpublished information made available to them in the context of the cooperation.

(2) The Members undertake, in relation to the Confidential Information as follows:

a) to treat such information as strictly confidential;

b) not to disclose any of the Confidential Information to any Customer, Beneficiary or other third party unless prior written approval is granted by the Member disclosing it and subject to the execution by any such third party of a confidentiality agreement, in a form identical to this Agreement, a copy of which shall be forwarded, without delay, to the Member disclosing the Confidential Information;

c) not to use any of such information for any purpose other than for the aspects described in Article 2 (1);

d) not to analyze, test or reverse engineer or have analyzed, tested or reverse engineered any samples, formulas, combination of formulas or any technical or scientific methodology, chemistry or know-how provided by any of the Members for their components, formulations or processes;

e) not to file any patent, utility model or design application based upon the Members' information or samples.

(3) The Members may not disclose Confidential Information to any third parties for any reason whatsoever without the express written consent of the Member disclosing it. Confidential Information does not include, and, the Members shall not be under any obligation with respect to any information that:

a) was known to it on a non-confidential basis prior to receipt thereof;

b) was publicly known prior to receipt thereof;

c) became publicly known on a general basis after receipt thereof without breach of this Agreement;

d) was disclosed to it without restriction by a third party who has the right to disclose it lawfully; or

e) was developed independently by the Member, provided that it can demonstrate this through tangible evidence, without reference to or reliance upon the subject Confidential Information.

Specific Confidential Information shall not become exempt from the obligations according to Article 6 of this Agreement merely because it is embraced by general information within any of the exceptions above. Likewise, any combination of specific items of Confidential Information shall not fall within any exception merely because the specific items fall within any exception, but only if the combination itself, and its principles of operation, fall within any exception.

(4) Affiliates as well as experts, other externs and trustees, as well as employees of one or all Member(s), are not regarded as third parties for the purposes of Article 6 of this Agreement. The Members are responsible for full compliance by their Affiliates and experts, other externs and trustees, as well as employees, and shall ensure that these sign adequate confidentiality agreements (except that employees or Affiliates do not need to sign such agreements if confidentiality is adequately assured by their respective employment contracts or company policies). Members will disseminate Confidential Information to their

employees, Affiliates or external experts only on a need to know basis and to the extent absolutely necessary for the purpose of this Agreement, and only if the aforementioned are contractually or otherwise obliged to the keep the Confidential Information confidential. .

Members that are Only Representatives are entitled to disclose information to the principals they represent. The principals are considered as Affiliates for the purpose of this provision.

(5) The Members acknowledge that they may become obliged, under law, to disclose Confidential Information to third parties, and such disclosure shall not constitute a breach of this Agreement. Nevertheless, immediately upon learning of such obligation, and prior to disclosure, if lawful, the respective Member shall notify the Member having disclosed the Confidential Information.

(6) The obligations of confidentiality and non-use shall remain in effect and shall survive membership of the Consortium as per Articles 13 (3) and (4) and Article 4 (1)(d).

(7) Nothing in this Agreement shall oblige any Member to disclose Confidential Information which in its absolute discretion it decides not to disclose.

(8) Any Member shall be entitled to disclose Confidential Information of another Member to any of its Affiliates to the extent practicable for the performance of this Agreement. The receiving Member, however, shall remain responsible for its Affiliates' compliance with the terms of this Agreement.

(9) In the event of non-compliance with the duties here above, the Members are entitled to exclude the breaching Member from any further cooperation, by 2/3 majority voting. The obligation to render compensation for damages, other remedies and injunction or other equitable relief in accordance with the applicable legal provisions shall remain unaffected notwithstanding the stipulations contained in this Agreement.

Article 7 - WORKING OF THE CONSORTIUM

(1) The Consortium shall operate through a Steering Committee, which will exercise overall direction and control over the Consortium, a Technical Committee, which will be in charge of technical issues, and a Manager.

(2) Each Member in good standing shall appoint one representative and a deputy representative to the Steering Committee. The Member representatives are listed in Annex 4. Alternate representatives may be appointed under exceptional circumstances upon prior notification of the Manager. The attendance of additional experts will be accepted within reasonable limits. A Member is allowed to withdraw its representative from the Steering Committee in writing by filing a written notice to this effect with the Manager. A withdrawal shall be effective only if another representative is appointed at the same time. The Manager shall adapt Annex 4 accordingly when such changes are made.

(3) Each representative in the Steering Committee shall act for and bind the Member he/she represents with respect to all matters covered by this Agreement. A Member may also designate in writing to the Manager another Member in good standing to represent it in the Steering Committee and to act on its behalf with regard to all matters covered by this Agreement. Any Member accepting such a mandate may represent its own interests and

those of the Member it represents through a single representative, being understood that the Member representing another Member has the number of votes allocated to all the Members he represents. Representation by other Members is encouraged for workability of the Consortium due to its expected size.

(4) All decisions of the Consortium shall be taken in meetings, unless decision by written procedure of a particular item is agreed at the previous meeting, or the Chairperson of the Steering Committee so requests, or this Agreement provides otherwise. The terms of such written procedure have to be agreed in advance on a case-by-case basis.

(5) All decisions taken by the Steering Committee shall be binding on the Members and shall enter into effect on the date the minutes are considered as approved.

(6) All meetings of the Consortium (including meetings of the bodies of the Consortium) shall have an agenda except the meetings of potentially created expert subgroups, e.g. between toxicologists and/or other technical experts, which will be recorded in terms of 'pending' and 'completed' actions.

All agendas shall be detailed and shall make a distinction between proposed measures on which the Steering Committee or the other bodies of the Consortium are asked for an opinion, issues being put forward for information or simple exchange of views, and issues on which a decision (vote) will be taken. No decision shall be taken on an item which does not appear on the agenda, unless all the Members are present at a particular meeting and consent to the amendment of the agenda and the inclusion and discussion of the additional item is made at the respective meeting.

(7) All meetings of the Consortium (including meetings of the bodies of the Consortium) shall be minuted and have an attendance list attached to them. Minutes will be drawn up by the Manager within seven (7) calendar days after the meeting and made available to Members. Minutes shall be considered as approved if none of the Members explicitly object to the Manager within a further fourteen (14) calendar days. In case of objections, the Chairperson will attempt to resolve the matter and re-circulate them in draft form within a further seven (7) calendar days. In case of continued disagreement, minutes will be discussed, possibly amended, and approved with immediate effect at the next meeting by simple majority. Any persisting disagreement will be annexed to the minutes.

(8) Invitations to Consortium meetings (including meetings of its bodies) shall be issued at the latest fourteen (14) calendar days in advance and all meeting documents and the agenda have to be issued at the same time, unless in case of extreme urgency to be determined by the Manager. All meeting convocations shall be done via email to the addresses communicated to the Manager by the Members; electronic delivery receipt shall constitute proof of delivery. Each Member is responsible for keeping its mailing lists up to date and to have available adequate and trained representatives for the work to be conducted.

(9) All meetings shall be conducted in Brussels (unless Members decide differently at the beginning of a calendar year) at a location to be determined by the Manager. Members have to carry their own lodging and travel expenses in relation to the meetings of the Consortium and its bodies. Participation by phone or video rather than in person is permissible.

(10) The working language of the Consortium is English. All meetings of the Consortium and its bodies shall be conducted in the English language and all documents shall be presented and drawn up in English. No translation will be provided. Members are entitled to bring their

translators at their own expense if they so desire.

(11) The Steering Committee will meet at least twice every year, unless the Technical Committee or Manager requests to convene additional or fewer meetings or the Members request so by simple majority.

(12) The Steering Committee shall be managed by the Manager. The Manager shall be responsible for correct execution of the agenda of the meetings, coordination with the Technical Committee, consultants and other experts. The Steering Committee shall elect a Chairperson and a deputy Chairperson among the Members for a period of three years, which may be renewed. The Chairperson shall sign the contracts with the Manager, consultants etc. on behalf of the other Members. The Chairperson can be requested to withdraw from his position during a term by 2/3 majority vote of all Members.

The Chairperson may, on his own initiative or at the request of a Member, postpone the vote on a particular agenda item until the end of a meeting or to a later meeting if (i) a substantive change is made to the proposal during the meeting; (ii) if the text of the proposal has been submitted to the group during the meeting; or (iii) if a new point has been added to the agenda.

(13) Each Member in good standing has the number of votes in the Steering Committee allocated pursuant to Article 11 (3)., i.e. commensurate with the number of Cost shares. The votes for a Member that is an Only Representative shall be calculated on the basis of the natural or legal person including its Affiliates established outside the EU by whom the Only Representative is designated (Principal). If an Only Representative represents more than one Principal, it will thus have a number of votes corresponding to the number of Principals and their respective Cost shares outside the EU whom it represents.

Members shall not be entitled to vote on matters related to Uses for which they have not participated in Cost sharing, and they shall in this case not be counted towards the necessary majority required. Moreover, Members not concerned shall not participate in discussions unrelated to their Uses. The Chairperson and the Manager are jointly in charge of assuring the respective confidentiality and voting rights.

(14) Unless otherwise provided for in this Agreement, the Steering Committee shall decide by two/third (2/3) majority of votes cast (i.e. votes collected from Members in good standing, regardless of presence at the meeting and regardless of nominal number of Members of the Consortium). In those cases in which this Agreement provides for a 2/3 majority of 'all Members', this requires a 2/3 majority of the nominal number of Members in good standing. If such 2/3 majority of 'all Members' cannot be attained, a new vote may be called by written procedure then requiring 2/3 majority of 'votes cast'.

(15) When required for compliance with relevant competition laws, the Steering Committee shall decide on appointing an independent third party as Trustee, for example the Manager or a technical consultant as may be appropriate depending on the type of information to be processed, for the development and processing of Data, including in cases of niche applications which are not accessible to the professional community as identified Uses, or in the case of assessment of alternatives or substitution plans. In such event, the Trustee shall inform the Steering Committee in aggregated form concerning the information obtained, thereby observing confidentiality.

(16) The Steering Committee shall have all powers necessary to ensure that the purpose of the

Agreement is achieved in the most efficient and cost-effective way. The tasks of the Steering Committee may include, inter alia:

a) decisions on funding and expenses, scope and matters of policy;

b) decisions on working and finance plan(s) and management of financial resources of the Consortium, including budgeting, funding collection and accountancy; such plans(s) inserted as Annex 5 to this Agreement;

c) decisions on Annex 1;

d) appointment of external consultants / law firms etc. to perform technical, scientific, legal, administrative, management, secretarial, accounting, record keeping or other tasks necessary for the fulfillment of the purpose of the Consortium. The Steering Committee shall procure that a third party shall maintain confidentiality concerning all information made available to them through Members for that purpose. A respective obligation must be imposed upon expert or other competent externs.

e) decisions to purchase, collect and elaborate Data;

f) appointment, supervision, and removal of Manager, Trustees and other bodies, and terms of such appointments;

g) approval of the Authorization Dossier in whole or in parts to be submitted to ECHA and selecting the Data which will be subject to a request for confidentiality protection in accordance with Article 119 of REACH;

h) approval of financial valuations and Data compensation;

i) approval of work on the review of the Authorization Dossier in whole or in its parts;

j) decision(s) regarding provision of rights to third parties;

k) decision(s) on the exclusion of a Member;

l) decisions on amendments of this Agreement and/or its Annexes (except Annex 4 (contact details)) which may be amended at any time by the Manager); including upon potential amendments of REACH; or possible inclusion of other member categories (e.g. associate members);

m) ensuring competition law compliance;

n) granting rights to third parties in accordance with Article 10.

(17) The Steering Committee shall appoint the members of the Technical Committee, upon proposals by the Members of the Consortium (it is not mandatory for each Member of the Consortium to propose a Member of the Technical Committee). The Technical Committee shall be composed of a minimum of one (1) member per Use. The Technical Committee shall oversee and coordinate the activities of technical consultants, engaged to conduct:

a) collection and evaluation of Data, and related analytical methods and gap analysis;

b) collection and evaluation of Uses and development of exposure assessments where necessary to prepare or amend the chemical safety report;

c) proposal for collecting and drawing up Data for completion of the Authorization Dossier(s);

d) filing of relevant Data into the IUCLID 5 database according to the decision of the Steering Committee; it being understood that the submission of the Authorization Dossier(s) to ECHA shall be done by each Member individually, unless Members arrange differently among themselves bilaterally;

e) assessing the scientific and financial evaluations of the Data and Authorization Dossier(s).

f) coordination of the overall technical work.

The Technical Committee may organize task forces or other subgroups responsible for specific issues as identified by the Technical Committee, for example for elaborating Data on individual Uses.

The decisions of the Technical Committee shall be adopted by consensus of the Members concerned, whereby in case of absence at a specific meeting, non-objection to the minutes of the respective meeting is considered approval. If consensus cannot be reached, the Technical Committee shall bring the matter before the Steering Committee, which shall have the final say. The rules of the Steering Committee concerning non-participation and non-voting for Uses for which a Member does not share the corresponding Use Cost pursuant to Article 11 (2) and (4) shall also apply to the Technical Committee and any of its subgroups.

(18) The Manager who reports to and will be appointed by the Steering Committee by 2/3 majority, shall be in charge of:

a) recordkeeping of all Data shared within the Consortium, the valuation status thereof and access rights thereto, as well as other documents related to the Consortium until December 1, 2025;

b) receiving and responding to third party enquiries;

c) calculating membership and expense allocation and invoice/credit Members accordingly, and other accounting tasks;

d) keeping an up-to-date electronically accessible list of all Members of the Consortium, representatives in the Technical Committee, in the Steering Committee, external consultants / law firms, and other issue holders of the Consortium, as the case may be;

e) handling any non-technical Confidential Information, Data and other information and documentation that may be sensitive from a competition law point of view;

f) drafting the minutes of the Steering Committee, reviewing the minutes of the Technical Committee and its subgroups with respect to competition laws;

g) overall administration of the Consortium except technical aspects to be ensured by

Technical Consultant, financial management, e.g. invoicing, annual reporting to Members thereon; archiving, legal review of contractual arrangements, ad-hoc legal advice on REACH related issues, competition law;

h) following the legislative developments on REACH and informing the Members thereof.

(19) The Technical Consultant who reports to and will be appointed by the Steering Committee by 2/3 majority, shall be in charge of:

a) collection and evaluation of Data from Members, and third parties; preparing the Authorization Dossier(s);

b) management, preparation and minute taking for the Technical Committee and its subgroups and interaction with the Steering Committee;

c) handling any technical Confidential Information, Data and other information and documentation that may be sensitive from a competition law point of view;

d) preparation of the work and finance plan in conjunction with the Manager;

e) interaction with ECHA, national authorities, and technical contractors that may be employed the Consortium, including for the latter supervision / processing of purchase orders for Data in line with the approved working plan;

f) following the technical developments on REACH and informing the Members thereof.

(20) Upon proposal of the Manager, the Steering Committee shall adopt a work and finance plan concerning the planned activities until the submission of the Authorization Dossier(s) will have taken place. The work and finance plan shall be updated annually and is attached to this Agreement as Annex 5.

(21) The Chairperson and the Manager shall make their best efforts to ensure that there are no information exchanges or any other type of activities that would contravene Articles 101 and 102 of the Treaty of the European Union. In case of doubt, the Chairperson and Manager may seek legal advice either from the Manager or if necessary from another expert. Should the risk of an infringement be identified, the Chairperson and/or Manager shall propose to the Steering Committee to appoint an external expert (Trustee), who would receive and compile such information and return it to the Members in an aggregated form that does not trigger the application of the EU competition rules. The Steering Committee shall appoint such Trustee. The Trustee shall agree to and observe confidentiality and secrecy with respect to Confidential Information provided by Members of the Consortium; he/she shall conclude a confidentiality agreement with the Members of the Consortium.

(22) Correspondence relating to the Steering Committee shall be addressed to the Manager. Correspondence for the Members shall be addressed to each Member at the address contained in Annex 4.

Article 8 – EXISTING DATA

(1) The review of Members' existing Data and of third parties' Data potentially made available for free or against compensation for the purpose of being used as part of the Authorization Dossier either as such or after revision will be conducted by the Technical Committee assisted by a Technical Consultant. Within sixty (60) days after the Effective Date, all Members will make available to the Technical Committee their existing Data. Any exposure data owned by Members shall be made available by them for free.

(2) The Technical Consultant will assess the scientific and financial value of the Data made available in accordance with paragraph (1) on the basis of generally recognized valuation rules normally used for REACH registration and in accordance with best industry practice. The assessment will then be submitted for approval to the Steering Committee. Each Member shall consent to its existing Data being used as part of the Authorization Dossier. In as far as existing Data is co-owned by third parties, Members shall make best efforts to assist the Consortium Members to obtain a license to use such data at an adequate cost.

(3) The Cost compensation for Members' existing Data shall be allocated to the contributing Members in equal parts unless they have previously among themselves and any potential third party co-owners mutually agreed on another allocation key.

(4) All payments due to Members from other Members shall be made sixty (60) days after the invoice date.

(5) The rights to Members' existing Data shall be retained by the Member who presented the existing Data. The other Members having made a payment in accordance with the Cost will have the ability to use and/or refer to the respective Data for their Authorization Dossier(s). Those other Members shall obtain a copy of the Data. The right to use, however, is non-transferable or assignable and it does not give citation rights in other parts of the world outside the EU, nor does it give any ownership or data compensation rights to such Data, or allow the other Members to obtain a hard copy of the Members' existing Data used. Only the holder of the right(s) pursuant to sentence 1 shall be entitled to use the Data or to grant a right for the use of them to third parties for purposes other than the purposes of this Consortium to the extent not otherwise provided for in the individual case.

(6) The Consortium Members, through decision of the Steering Committee, may jointly grant access to third parties to cite and rely upon the Existing Data of a Member in accordance with Article 10.

(7) Any use of Member's Existing Data by Members outside the conditions set forth in Article 8 is subject to negotiations and an agreement outside the scope of this Agreement and does not involve, in any way, the Consortium.

(8) The Consortium Members, through decision of the Steering Committee, may jointly purchase rights to existing Data of third parties ('Third Party Data'). The compensation and use rights for such Data shall be determined by contract with the Consortium. If a contractual agreement cannot be reached, the relevant rules of the REACH Regulation (Article 27 to 30) shall apply.

Article 9 – NEW DATA

(1) This Agreement shall confer joint ownership rights and joint data compensation rights to the Members in any Data that they elaborate together or engage experts to draw up. Specifically, as regards such new Data, each Member will individually have the right to:

a) disclose, use and distribute the Data within its own legal entity including its Affiliates; as well as to the Principal represented in case of Members that act as Only Representatives;

b) prepare abridgements, condensations or, and use and distribute these;

c) disclose, use and distribute the final reports (including supporting documentation and data) with any governmental authority;

d) disclose, use and distribute the final reports (including supporting documentation and data) to those to whom the Members are obliged by law to make such disclosure.

(2) Any such Data generated or developed jointly by the Members in accordance with this Agreement shall be owned jointly by the Members provided that the individual Members have contributed to the Costs thereof in accordance with the Cost allocation method set out in Article 11of this Agreement. Each of the joint owners shall obtain a copy of the Data. The New Data referred to in the first sentence may be used by the Members who have contributed to the Costs thereof *for their own purposes, and their Affiliate' purposes, for any purposes anywhere, not restricted to REACH.* In the case of Members that are Only Representatives, this right of use extends to the Principal represented, and its Affiliates in accordance with the aforesaid rule on Affiliates. Members and their Affiliates shall not for a period of twelve (12) years from the date of initial submission to the Agency sell, license or otherwise make available to third parties such Data without prior written approval by a 2/3 majority of the remaining owners who have financially contributed to the Costs thereof unless otherwise agreed by the Members.

(3) Any such new Data shall be regarded as confidential and joint proprietary data of the Consortium Members. Subject to the other relevant provisions of this Agreement, each Member agrees, on behalf of itself and its employees, agents, contractors, and Affiliates, to maintain all new Data in strict confidence and not to license or disclose in any way such studies to any third party without the prior written authorization of all Members of the Consortium. In case a Member would want to license or disclose new Data to a third party, it shall first inform the Chairperson of its intention who shall bring the matter up at the next meeting of the Steering Committee. Upon request of the Member concerned, the name of the third party to whom the Member wants to license or disclose the new Data may not be disclosed to any of the other Members.

(4) Notwithstanding this Agreement, a Member may use the new Data in connection with any civil or criminal litigation in which the Member is a named party or where such Data is the subject of a judicial subpoena (provided such Data is the subject to an appropriate protective order). Prior to submission in connection with such litigation, the Member shall obtain approval of the Steering Committee for any submission and shall provide a copy of the court order.

(5) The Steering Committee shall have the right to negotiate licenses with and receive

compensation for said licenses relating to new Data from third parties. Any compensation paid to the Consortium by third parties with respect to such new Data shall be distributed to the Members proportionate to the Cost they have contributed to the development of such new Data previously.

Article 10 - LETTERS OF ACCESS

(1) The Steering Committee shall have the right to negotiate granting access to third parties to use, or refer to the Authorization dossier submitted to ECHA, by means of a Letter of Access.

(2) The Letter of Access will be granted against payment of the Use Costs and the Common Costs calculated for the Authorization Dossier sought by the Letter of Access applicant, whereby the size of the Letter of Access applicant will be taken into account for the Cost calculation in accordance with the principles for Members set out in Article 11 (3). In addition, a premium will be charged which will be 30% of the Common Costs and Use Costs until the latest date of application set in Annex XIV REACH; or 100% premium of the Common Costs and Use Costs at any point in time thereafter. In both cases, a handling fee of €1,500 will be charged to reimburse the Manager for its work in relation to the administrative handling of the Letter of Access Application and invoicing. The amounts so received will be divided by the total number of votes of the total number of Members' in good standing, who have contributed to the Common Costs and Use Costs of the respective Data and thereafter will be allocated to each such Member in accordance with such Member's number of votes pursuant to Article 11 (3).

(3) The use and/or referral right shall remain valid as long as the third party has a valid Authorization relying upon the Authorization Dossier and/or Data contained therein. The Letter of Access may only be used by the third party to support its own and Affiliates' own authorizations of the Substance for purposes of REACH. Under no circumstances will the third party be allowed to cite or otherwise make use of the Data or Authorization Dossier for other purposes, or to use it to fulfill any other regulatory requirements, within and/or outside the European Union, unless this is specifically agreed to in the terms of the Letter of Access. Under no circumstances shall the third party be entitled to use the data for purposes that are not expressly authorized by the Consortium.

Article 11 – COSTS – COST SHARING

(1) Costs ('Cost(s)') of the Consortium shall consist of all contract charges, legal, accounting and other professional fees and all other expenses reasonably incurred in the performance of the activities of the Consortium under sound accounting practices, including collection and validation of Data, introduction of Data in electronic files, technical studies and research, participation of experts, technical meetings, and more generally all activities of the Consortium, provided those activities have been approved by the Steering Committee.

(2) Costs common to all Members shall be denominated as 'Common Costs'. Costs related to supporting individual Uses as set out in Annex 1 shall be denominated as 'Use Costs'. Common Costs shall include all Cost related to the management of the Consortium and all Costs determined as Common Costs in Annex 1. Use Costs shall not include any cost related

to generating and filling company specific information into the Authorization application that is specific to a Member and cannot be used for another applicant (e.g. specifics of exposure, specifics of a substitution plan). The Manager may determine when this is the case.

(3) Common Costs shall be shared by dividing them into equal shares according to the number of total votes of all Members, each Member bearing the Costs commensurate with its number of votes. A Member with one vote shall be allocated one Common Cost share, a Member with two votes shall be allocated two Common Cost shares, and so forth. An Only Representative representing several Principals will be counted for purposes of this provision based on the number of Principals he represents, i.e. if an Only Representative represents three Principals, he will have to pay the Common Costs for three Members whose voting rights and thus Cost shares are determined individually for each of them based on the same formula as for the other Members.

The number of Votes shall be determined based on the size of the Member at the Effective Date using the same ***cumulative*** criteria (and including worldwide linkages and partners) as are applicable to determine the ECHA administrative fees for Authorization applications pursuant to Annex VI of Regulation 340/2008[4] in conjunction with Commission Recommendation 2003/361/EC.[5]

Micro enterprise	Employs fewer than 10 persons; ***and***	Annual turnover and/or annual balance sheet total does not exceed €2 Million	One (1) vote
Small enterprise	Employs fewer than 50 persons; ***and***	Annual turnover and/or annual balance sheet does not exceed €10 Million	Two (2) votes
Medium enterprise	Employs fewer than 250 person; ***and***	Annual turnover not exceeding €50 Million and/or annual balance sheet not exceeding €43 Million	Three (3) votes
Other enterprise			Four (4) votes

For purposes of accountability, the sizes notified by Members at the Effective Date shall be fixed for the duration of the Consortium, regardless of any changes of interest of individual Members during the life of the Consortium. However, the Manager shall have the right, at the cost of the individual Member concerned, and during the entire life time of the Consortium, to request and to carry out a third party audit of the accuracy of the size notified. In case the audit reveals that a Member had notified an incorrect size, the Consortium Member shall automatically be considered in default and may be expelled from the Consortium, thereby automatically losing its rights to compensation from Letters of Access.

[4] Commission Regulation 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation 1907/2006, as may be amended..

[5] Commission Recommendation 2003/361 concerning the definition of micro, small and medium-sized enterprises.

(4) Use Costs shall be shared along the same principles as the Common Costs under (3) above among those Members that have notified their interest in the specific Use to the Manager at the Effective Date. The same applies to subcategories of Uses as determined by the Steering Committee. Should despite the broad definition of Use categories contemplated herein a Member consider its Use as confidential, it shall indicate so with the notification to the Manager. In such case, the Manager shall inform the Members only about the division factor used for the specific Use, but shall not reveal the identity of the Member wishing to keep its Use confidential. Should any Use Costs be common to more than one Use, the Cost so related will be split equally between the Uses concerned. The same shall apply to Use Costs common to several subcategories of Uses.

(5) Costs of the Consortium shall be pre-funded on an annual basis based on the Work and Finance Plan set out in Annex 5.

(6) Costs shall not include any charges for overhead, time, or out-of-pocket expenses (including for Members own external consultants, lawyers etc.) by the Members or their officers or employees, which may be incurred in connection with the activities of the Consortium, except as may be approved in exceptional cases in advance by the Steering Committee.

(7) All payments due hereunder including for Letters of Access shall be net payments, i.e. free of any bank or transfer charges or similar charges and without deduction of any taxes, levies or other dues payable. If payer is required to withhold any tax or to make any other deduction from any such payments, then the said payments shall be increased to the extent necessary to ensure that, after making of the required deduction or withholding, payee receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which payee would have received and so retained had no such deduction or withholding been made or required to be made (gross-up amount). If upon application of the beneficiary any Withholding Tax can be reduced, or refunded, or an exemption from Withholding Tax is granted, payer shall file on behalf of payee for such reduction, refund or exemption. Payee shall render any assistance to payer to obtain such Withholding Tax reduction, refund or exemption. Payer shall be entitled to any refund of Withholding Taxes.

Indirect Taxes – including but not limited to Value Added Tax (VAT), Goods and Service Tax (GST), Service Tax, Business Tax – as applicable pursuant to the relevant tax law, shall be borne by payer. However, payer is entitled to withhold any payment of indirect taxes unless payee has provided payer with a sufficient invoice for purposes of indirect taxation.

Article 12 - DEFAULT

(1) In addition to Article 11 (3) above, a Member may be deemed in default if it fails to pay an invoice or payment notice within sixty (60) days of invoice / payment notice date (due date). A Member may also be deemed to be in default if it uses Data or the Authorization Dossier other than as authorized by this Agreement or breaches the confidentiality provisions hereof. The Steering Committee shall notify in writing any Member in default. A Member in default automatically forfeits the Member's voting rights, and a Member in default shall own and shall have the right to use (subject to the terms and conditions of these Agreement) only those Data finalized as of the date of the default, unless and until said Member shall cure its default within a further thirty (30) days. A Member shall cure a default based upon failure to

make payments, when due, by advancing the funds due, plus ten per cent (10%) interest from the date of default for the period between the date of default and the date of payment.

(2) If a defaulting Member cures its default based upon failure to make payments when due within thirty (30) days (after due date), any sums (including interest) so paid by the defaulting Member shall be paid to any Member or Members who advanced the defaulting Member's share of additional assessments. A Member who has failed to make payment within sixty (60) days after due date shall automatically cease to be a Member without the necessity of further Steering Committee action.

Article 13 - DURATION AND DISSOLUTION OF THE CONSORTIUM

(1) The Consortium shall commence on the Effective Date and will continue to exist for an indefinite period unless it is terminated in accordance with the provisions of this Agreement.

(2) The Consortium may be dissolved by a decision taken by 2/3 majority vote of all Members. A respective resolution shall be taken if the purpose as defined under this Agreement has been fulfilled to its full extent.

(3) In the event of dissolution of the Consortium, there shall be a winding up of the said Consortium. All financial obligations shall be fulfilled. All rights and obligations of Members among each other and in relation to third parties resulting from this Agreement shall be settled. Article 10 of this Agreement shall survive the dissolution of the Consortium with the following modification: Article 10 shall be performed by a Trustee who shall act instead of the Steering Committee. Article 6 shall survive the dissolution of the Consortium until December 31, 2025.

(4) With regard to Data and the Authorization Dossier, the obligations specified in Article 6 of this Agreement shall survive until December 31, 2025.

Article 14 - INDIVIDUAL OBLIGATIONS

Notwithstanding the foregoing, all Members are individually obliged to comply with all relevant requirements of REACH. They shall critically assess the information submitted to or generated by the Consortium activities. They shall allocate adequate human and financial resources to the Consortium for it to fulfill its tasks. They shall fund in advance the agreed work plans and other agreed actions. They shall immediately inform the Manager of any significant change with respect to their legal status or organization.

Article 15 - FINAL PROVISIONS

(1) The legal relationships of Members with respect to this Consortium shall be governed exclusively by this Agreement. Any other arrangements do not exist or are considered null and void. This Agreement will not be construed, nor will it be implied, to constitute any license from any Member under any of the other Members' patents or trademarks. There are no promises, terms, conditions or obligations other than those contained herein.

This Agreement or the cooperation contemplated herein shall not constitute or be deemed to constitute a legal entity or partnership between the Members nor make a Member the agent or representative of another Member unless expressly stated otherwise herein. In its relations with third parties, the Consortium will not act under its own name but as a community of all its Members. The Manager shall be allowed, upon prior instruction, to act in his own name but on account of all Members concerned.

(2) Amendments to this Agreement must be in written form to be effective.

(3) Except as otherwise explicitly set out herein, no Member shall assign this Agreement or any of its rights, obligations or beneficial interests hereunder in whole or in part to any other party without the written prior 2/3 majority decision of the Steering Committee.

(4) This Agreement is subject to the laws of Belgium without giving effect to any rules on conflict of laws. All matters which are not covered by this Agreement shall be settled in accordance with the provisions of Belgian law.

(5) In case of a dispute arising out of this Agreement, the parties to the dispute shall first attempt (in good faith) to reach an amicable settlement at Steering Committee level. Should such amicable settlement fail within two (2) months after the conflict has arisen, a Member shall have the right to submit the dispute to arbitration. In such case, the issue shall be definitively decided in accordance with the rules of conciliation and arbitration of the International Chamber of Commerce (ICC). The decision shall be binding on the parties. The arbitral tribunal consists of three (3) arbitrators: each party designates one (1) arbitrator; these two (2) arbitrators then designate the third arbitrator, who acts as chairperson; the chairperson shall have a university degree in law. The arbitration award shall include a decision on who bears the cost of arbitration. Arbitration shall take place in Brussels, Belgium. The language of the arbitration proceedings shall be English. No other ways of recourse shall be available. The arbitration decision shall be binding on the parties.

(6) If a provision of this Agreement is found to be unclear or incomplete, an interpretation that best approximates the intent of the Members as expressed in this Agreement shall apply.

(7) If a provision is invalid, this does not affect the validity of the other provisions. It is deemed to be agreed upon that an admissible provision which best approximates the intent of the Members replaces the invalid provision; accordingly, the Members agree to make a respective written amendment to this Agreement without any delay.

(8) This Agreement may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed by their duly authorized representative on the date set forth next to each signature.

……

Name:

Title:

Date:

……

Name:

Title:

Date:

ANNEX 1 – USES

Part 1 - List and Definition of Uses

(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) – (7).

(2) Functional chrome plating

An industrial use, meaning the electrochemical treatment of surfaces (typically metal or plastic) 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 a series of pre-treatments and surface deposits unlimited in thickness but typically between 2µm and 5000 µm. Functional chrome coatings are widely used in many industry sectors.

(3) Decorative Plating

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 decorative plating, 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. Decorative chrome plating may include use of chromium trioxide in a series of pre-treatments and surface deposits. Decorative plating is used widely in automotive, plumbing, household appliances, bathroom, furniture and homeware applications. Decorative plating includes black chrome plating, which has been used, for example, in solar panel manufacture, where deposits are porous and <1 µm in thickness.

(4) Other surface treatment **with** Chromium VI present on the end product (article)

This Use includes processes that convert the surface of an active metal by incorporating a barrier film of complex chromium compounds that protects the metal from corrosion. This process may include use of chromium trioxide in a series of pre-treatments. Specifically, it includes conversion coatings, deposition and other surface treatment where a chromium-trioxide-based solution is used and where d chromium VI will be present on the finished surface. The Use includes, amongst others, chromium trioxide for anodizing.

(5) Other surface treatment with **no** Chromium VI present at detection limit on the end product (article)

This Use includes processes that convert the surface of an active metal by 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 process may include use of chromium trioxide in a series of pre-treatments. Specifically, it includes continuous coil coating of steel and passivation (e.g. zinc plating) where chromium trioxide is used to deposit a film 0.1-2 µm in thickness primarily to enhance corrosion protection and adherence properties. It also includes pre-treatments such as brightening, electrolytic de-burring, chemical polishing, pickling and etching of metals where the process is unrelated to Uses (2) or (3).

(6) Catalysts

Chromium catalysts used in a variety of applications, including but not limited to the following, hydrogen production, ammonia production, hydrotreating, hydroprocessing, refinery, fluorochemical and other organic chemicals manufacture, polyolefin production mainly in 'high temperature shift' reactions with a typical Cr(VI) content of 0.001% - 35%.

(7) Small scale laboratory use

The use of chromium trioxide or a substance based on chromium trioxide as a chemical reagent in small quantities for a variety of research and development and experimental uses, and as an analytical reagent for quality control. This explicitly excludes sampling and testing in the course of Uses (1) – (6) because this is considered covered by those Uses (1) – (6).

Part 2 - Matrix of Common Parts of Authorization Dossiers per Use Category

The matrix below covers those parts of the authorization application which could be common and which parts would need to be produced per use or per company. As requested, this splits the parts of the authorization application by use, with one side of the matrix containing all of the uses and the other side including the different parts of the authorization application.

For each part of the dossier, the matrix then includes suggestions as to what could be done in common and what would need to be done individually. Specifically, the work elements are divided into three categories:

- 'Common per use' ("C") indicates parts that would be expected to be done together by all companies forming part of the group for the use in question (i.e. the information would apply to all companies involved in that use).

- 'Individual' ("I") indicates parts where companies within the group may need or wish to provide their own additional information to supplement that within the overall group application. These are either included directly in the matrix or in the footnotes.

- 'Common across several uses' ("CA") indicates parts of the application where it will important to either (a) ensure that there are linkages between the application for the use in question with other uses (e.g. because there are linkages in the impacts that would occur in the event of non-authorization due to related markets/activities); or (b) produce parts of the authorization application in common across several uses (because the information is not use-specific or because it relates to characteristics of, or impacts on, chromium trioxide use as a whole).

Part of authorisation application	Work element	(1) Formulation of mixtures	(2) Functional chrome plating	(3) Decorative plating	(4) Other surface treatment (Cr VI present on the end product)	(5) Other surface treatment (no Cr VI present on end product)	(6) Catalysts	(7) Small scale laboratory use
Identification and description of uses								
Description of uses applied for.	General definition of use	C	C	C	C	C	C	C
Detailed information on the precise functions and tasks performed by the substance and conditions under which it is used.	Generic information available in the public domain or known to all members of the group. This can build upon the data collected by AMEC for "Phase 1". [Note 1]	C	C	C	C	C	C	C
	Specific information on, for example, confidential uses not known to other members of the group.	I	I	I	I	I	I	I
Chemical safety assessment / report								
Quantity (in tonnes) of the Annex XIV substance expected to be used or placed on the market on average, per annum.	Total amount to be used/marketed for the use applied for (unless too few companies involved in group). [Note 2]	C	C	C	C	C	C	C
Any updates to non-exposure-related aspects of CSR	Substance identity, physicochemical properties, classification and labelling, environmental fate properties, human health hazard assessment, environmental hazard assessment, PBT/vPvB assessment [Note 3]	CA	CA	CA	CA	CA	CA	CA
Information of the appropriateness and effectiveness of the RMMs to adequately control the risks posed by the use of the substance or to minimise emissions and exposure to	General information on extent to which emissions and exposure are minimised taking into account RMMs applied by the group.	C	C	C	C	C	C	C

Part of authorisation application	Work element	(1) Formulation of mixtures	(2) Functional chrome plating	(3) Decorative plating	(4) Other surface treatment (Cr VI present on the end product)	(5) Other surface treatment (no Cr VI present on end product)	(6) Catalysts	(7) Small scale laboratory use
the Annex XIV substance.	Information on any sub-categories of use not covered by the generic CSR	I	I	I	I	I	I	I
	Information on any company-specific RMMs that go further than the generic CSR	I	I	I	I	I	I	I
Describe arrangements that are (or will be) in place to monitor adequate control of risks (or minimisation of emissions and exposure).	Information on what companies will do to monitor minimisation of emissions and exposure.	C	C	C	C	C	C	C
Conclusion on the adequate control of risks or minimisation of emissions and exposure to the substance	Conclusion on minimisation of emissions [Note 4, Note 5]	C	C	C	C	C	C	C
Analysis of alternatives [Note 6]								
Whether the transfer to identified possible alternatives would result in reduced overall risks to human health and the environment, taking into account the appropriateness and effectiveness of risk management measures.	Information on risks of generally-known (possible) alternative substances and techniques, including relative health/environmental hazards/exposure/risks and differences in RMMs. [Note 7]	C	C	C	C	C	C	C

Part of authorisation application	Work element	(1) Formulation of mixtures	(2) Functional chrome plating	(3) Decorative plating	(4) Other surface treatment (Cr VI present on the end product)	(5) Other surface treatment (no Cr VI present on end product)	(6) Catalysts	(7) Small scale laboratory use
Technical feasibility of the identified possible alternatives.	Analysis of generally-known (possible) alternative substances and techniques, including common data/information/views on technical implications collected from amongst the members on those alternatives (building on the initial information from Phase 1, as well as additional data collected from members for Phase 2, as well as literature). [Note 7]	C	C	C	C	C	C	C
	Company-specific data on extent to which (a) known alternatives could be applied in the specific (confidential) uses applicable to an individual company, or (b) other possible alternatives only produced / used / tested by specific companies where the relevant information from testing cannot be shared. [Note 8]	I	I	I	I	I	I	I

Part of authorisation application	Work element	(1) Formulation of mixtures	(2) Functional chrome plating	(3) Decorative plating	(4) Other surface treatment (Cr VI present on the end product)	(5) Other surface treatment (no Cr VI present on end product)	(6) Catalysts	(7) Small scale laboratory use
Economic feasibility of the identified possible alternatives for the applicant.	Generic information on economic feasibility for 'typical' companies (applicants) within the sector. Examples of the types of economic impacts that could occur as a result of non-availability of the substance. Anonymised company-specific information on economic implications for members of the group. [Note 7, Note 8]	C	C	C	C	C	C	C
Information on any relevant R&D activities that support conclusions on the (non)suitability of identified possible alternatives.	Publicly available information on R&D on specified (possible) alternatives, including published data but also any information that members are able to reveal.	C	C	C	C	C	C	C
	Anonymised information on the extent to which R&D has been undertaken by members of the group.	C	C	C	C	C	C	C
	Any company-specific data on R&D activities that companies are not able to share with other members.	I	I	I	I	I	I	I
Discussion on availability of suitable alternatives.	Information per use on stage of development of alternatives, availability on the market, etc. [Note 9]	C	C	C	C	C	C	C

Part of authorisation application	Work element	(1) Formulation of mixtures	(2) Functional chrome plating	(3) Decorative plating	(4) Other surface treatment (Cr VI present on the end product)	(5) Other surface treatment (no Cr VI present on end product)	(6) Catalysts	(7) Small scale laboratory use
Argumentation about timeframe in which identified possible alternatives are expected to become suitable and available.	General use-specific information on activities to make alternatives more readily available, building on data from members (suitably anonymised) as well as relevant literature. [Note 10]	C	C	C	C	C	C	C
Substitution plan								
Timetable for proposed actions to substitute the substance with a suitable alternative.	Assumed to be not applicable [Note 11]	-	-	-	-	-	-	-
Socio-economic analysis								
Argumentation that the socio-economic benefits outweigh the risk to human health or the environment arising from the use of the substance.	An overall socio-economic analysis comparing socio-economic benefits to health/environmental risks and assessing the impacts of withdrawal of the substance. [Note 12, Note 13]	C	C	C	C	C	C	C
Justification for not considering certain risks								
Justification for not considering risks to human health and the environment (in relation to IPPC and Water Framework Directives, according to Article 62(5)(b) of REACH	General justifications regarding coverage of the companies / sectors included within the group, in relation to the IPPC and Water Framework Directives. [Note 14]	C	C	C	C	C	C	C

Part of authorisation application	Work element	(1) Formulation of mixtures	(2) Functional chrome plating	(3) Decorative plating	(4) Other surface treatment (Cr VI present on the end product)	(5) Other surface treatment (no Cr VI present on end product)	(6) Catalysts	(7) Small scale laboratory use

Notes:
[1] It is also likely to be relevant to include information relevant to other uses. For example, for use (1), it will be important to include information relevant to the functionality in downstream uses (2-7) and for those downstream uses, the importance/functionality of formulating (1) will need to be taken into account. For uses involving surface treatment, it will be important to provide appropriate cross-references amongst uses (2-5), particularly where pre-treatment takes place before e.g. chromium plating.
[2] Individual companies may wish to provide information relating to uses in confidential sub-categories of the use applied for. Also, if too few companies are involved in each group (e.g. • 3), this information may need to be submitted separately. For formulation (use 1), it may be of relevance to include Information on the quantities subsequently used in the relevant downstream applications and a link to those applications (uses 2-7).
[3] These elements do not necessarily need to be updated as part of the authorisation application. However, they are included here because the CSR may need to be updated following any feedback on ECHA's evaluation process.
[4] Adequate control is not expected to be relevant for chromium trioxide. It will therefore be necessary to demonstrate minimisation of emissions/exposure as far as possible to avoid adverse effects.
[5] It will also be necessary to reference applications for other uses in relation to minimisation of emissions/exposure in cases where several uses apply within the supply chain (e.g. for use in chrome plating, it will also be important to demonstrate that exposure/emissions are also minimised during pre-plating treatment under uses (4) or (5)).
[6] In relation to alternatives, it will be important within any one group to consider the availability of alternatives for related uses in the supply chain and provide appropriate links to applications for other uses. For example, alternatives for surface treatment (use 4 or 5) undertaken prior to plating (use 2 or 3) may have implications for the viability of continued use in both uses. This applies to all elements, including reduced risks, technical feasibility, economic feasibility, etc.
[7] Individual companies may wish to supplement this with information on implications in relation to (a) possible alternatives for any confidential uses or (b) other possible alternatives produced / used / tested by specific companies where the relevant information from testing cannot be shared. This applies to all elements of the analysis of alternatives. It is likely that significant arguments could be made in an analysis common to all members within a group, given that a significant amount of information is already available in the public domain and/or could be made available by members based on their own technical expertise, without compromising confidentiality / competition law aspects. Therefore the extent of additional work by individual members may therefore be limited.
[8] Economic feasibility arguments specific to individual companies will need to be added individually, particularly where cannot be shared with other members of the group due to confidentiality concerns. : It is possible that company-specific data on e.g. turnover/profit related to the substance may be needed to provide a full argument on the economic (non) feasibility for specific companies. However, the arguments for most uses / companies are likely to be very similar, based on Phase 1, so the extent to which this is required may be relatively minimal.
[9] Individual members may wish to supplement this with additional data on any company-specific constraints on availability. However, the extent of information needed for individual companies is likely to be minimal.
[10] Individual companies may wish to add information on company-specific R&D activities known to individual companies that they do not wish to share with other members.
[11] A substitution plan is to be submitted where the analysis of alternatives shows that suitable alternatives are available. Where adequate control cannot be demonstrated (as is expected to be the case with chromium trioxide), authorisation may only be granted in cases where there are no suitable alternative substances or technologies (and where socio-economic benefits outweigh risks). Therefore it is assumed that the substitution plan would not be applicable in this case. However, it is recognised that some individual companies may be able to replace the substance, if suitable alternatives become sufficiently developed within the coming years. Individual members may wish to provide such information in their application. Where application is not possible under the adequate control route, ECHA requires information on the efforts undertaken by the applicant towards substitution (actions and time-lines), linked to the length of review period.
[12] Individual companies may wish to supplement this with any information related to socio-economic implications for their own confidential sub-categories of use. However, the majority of socio-economic impacts are likely to be common/similar across the industries concerned, based on Phase I.
[13] It will also be important to include Information on socio-economic implications related to non-authorisation of all other chromium trioxide uses (e.g. because withdrawal of other uses may have implications for market viability). Likewise, the socio-economic impacts are likely to be similar across different uses (e.g. for functional chrome plating and decorative chrome plating, as well as a number of other surface treatments, one of the main likely impacts relates to potential movement of whole supply chains outside the EU. It will be important, therefore, for some co-development and/or cross-working amongst the applications for different uses.
[14] Individual members may wish to supplement this with any site-specific data that is relevant to their own installations (e.g. IPPC permit emission limit values or specific controls imposed by the national/regional authorities for compliance with the Water Framework Directive).

ANNEX 2 - ANTITRUST POLICY

In order to avoid any violation of the antitrust law regulations, the Members agree that the following activities shall be avoided:

Discussion or exchange of confidential information including on:

- companies pricing policies, customers credit terms;
- production costs, capacity, sales volumes;
- plans for production, distribution and marketing;
- changes in industry production;
- transportation rates, zone prices, freight equalization;
- company bids on new and existing contracts, company procedures for responding to bid invitations;
- marketing plans and strategies;
- information about raw material suppliers.

The Members further agree to:

- acknowledge this policy before each Consortium meeting;
- inform other company personnel involved in the work of the Consortium about the rules of this antitrust compliance policy;
- limit all discussions during meetings and elsewhere to the topics under the agreed agenda and with the restrictions above;
- protest immediately and leave the room should the discussion or any meeting activity appear to fall within the scope of the activities to be avoided;
- maintain a good record of all meetings.

CEFIC Guidance on Competition Compliance

I.

The Members shall not make any agreements concerning coordination of conduct which restrict or affect competition within the meaning of Article 101 Treaty on the Functioning of the European Union and shall observe the prohibition of abusing a dominant market position pursuant to Article 102 Treaty of the European Union:

Article 101

[Prohibition of agreements and practices distorting competition]

1. The following shall be prohibited and is incompatible with the common market: all agreements between undertakings, decisions of associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market, and in particular those which:

   (a) directly or indirectly fix purchase or selling prices or any other trading conditions;

   (b) limit or control production, markets, technical development, or investment;

   (c) share markets or sources of supply;

   (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

   (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this article shall be automatically void.

3. The provisions of subparagraph 1 may, however, be declared inapplicable in the case of:

   - any agreement or category of agreements between undertakings,

   - any decision or category of decisions by associations of undertakings,

   - any concerted practice or category of concerted practices,

   which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

   (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

   (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article 102

[Prohibition of abuse of a dominant position within the common market]

Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the internal market in so far as it may affect trade between Member States.

Such abuse may, in particular, consist in:

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

(b) limiting production, markets or technical development to the prejudice of consumers;

(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

II.

The Members of the Consortium shall act in compliance with the following checklist:

DO	DON'T
Application of competition law	
Articles 101 and 102 may be applicable to the foundation and activities of a Consortium.	Do not assume that conflicts with competition law are excluded simply by the fact that the Consortium complies with the provisions of the REACH.
Consultation in Matters of Competition Law	
An in-house legal expert or the company compliance officer or an external legal counsel should be consulted whenever there are uncertainties relating to compliance with competition law. All Consortium meetings/discussions which are not in compliance with the Code of Conduct shall be stopped until a legal expert is involved.	Do not assume that the Code of Conduct deals with all competition law issues exhaustively. Essentially, compliance with Articles 101 and 102 can be determined only on the basis of market impact in each individual case. The Code may therefore be regarded only as a source of general conduct recommendations.

DO	DON'T
Activities of the Consortium	
Cooperation within the scope of the Consortium should be restricted to the initially defined goals and purposes of the cooperation.	Pursuant to Articles 101 and 102 the following activities are prohibited within the scope of the Consortium: - Coming to arrangements on prices, markets and; - Joint boycotting of other companies; - Unjustified unequal treatment of trade partners; - The abusive exploitation of a dominant market position.
Exchange of Confidential Information	
A trustee may be involved for the exchange of confidential information, if required.	The exchange of confidential information concerning market behavior is inadmissible, specifically as it relates to - production capacities, - production or sales volumes, - import volumes, - market shares, - price policy, - distribution and marketing terms, - marketing strategies, - information regarding supplier relationships.
Documentation on Cooperation	
Minutes of all meetings of the Consortium shall be kept, which detail the subject of the meeting. The contents of the minutes shall be reviewed by an in-house legal expert or the company compliance officer prior to sending them to all participants of the Consortium. All meetings which are not in compliance with the Code of Conduct shall be stopped until a legal expert is involved.	

Cefic REACH Authorisation Competition Law Compliance Guidance[i]

First Edition - 15th December 2010

Introduction

According to Article 55 of the REACH Regulation, the aim of Authorisation is to *"ensure the good functioning of the internal market while assuring that the risk from substances of very high concern (SVHC) are properly controlled and that these substances are progressively replaced by suitable alternative substances or technologies where these are economically and technically viable. To this end all manufacturers, importers and downstream users applying for authorisations shall analyse the availability of alternatives and consider their risks, and the technical and economic feasibility of substitution".*

The overall authorisation process involves several steps including identification of SVHC, prioritisation of these substances for inclusion of Annex XIV, the listing of these substances on Annex XIV, application for authorisations, granting or refusing of authorisations and reviewing of granted authorisations.

Authorisation for a given substance will be granted if the applicant(s) can demonstrate that the risk from a specific substance/use is adequately controlled. If the risk is not adequately controlled, an authorisation may still be granted if it is proven that the socio-economic benefits outweigh the risks and there is no suitable substance/use or technology. Furthermore, REACH Authorisation may lead to substance/use substitution.

All activities become sensitive under competition law rules if carried out in co-operation with other companies. Companies entering into discussions whether and under which circumstances a REACH Authorisation should be sought, inter alia, must not collectively agree on the discontinuation of products/uses or agree on issues which may prevent, restrict or distort competition. Therefore, it is important that companies engaged in the REACH Authorisation process are aware of the competition law framework and the unequivocal need to comply with competition law.

This guidance is complementary to the Cefic "main" REACH competition law compliance guidance that is focusing on working in SIEF, Consortia and data sharing. The recommendations included in this guidance are drafted for companies engaged in REACH Authorisation. In addition, it may also be helpful for companies engaged in other legislation leading to substitution (eg the Carcinogens and Mutagens Directive) or in substitution on voluntary basis.

Who is responsible for ensuring compliance of REACH activities?

For both compliance with EU competition law rules and general compliance with the REACH Regulation:

- Each individual company remains responsible.
- Even if a company is member of a Consortium and according to the Consortium Agreement certain obligations under the REACH Regulation are shared among all consortium members, it is ultimately each company's individual responsibility to comply with the REACH Regulation and competition law rules.
- Neither Cefic, nor its Sector Groups or other Cefic groups would be responsible or liable for compliance regarding Authorisation.
- However, Cefic may provide horizontal and generic stewardship support.

Guidance

Working individually / in Consortia, SIEF or other grouping as for example a sectoral organisation

Unlike the pre-registration and registration phases of REACH, for Authorisation, companies have a choice of acting individually or grouping themselves in a Consortium or any other form of co-operation. There is no provision such as Article 29 of the REACH Regulation prescribing the co-operation of companies in preparing an Authorisation dossier and presenting arguments and files to ECHA / relevant authorities. The analysis here below is made under the assumption that work on REACH Authorisation is conducted in a co-operative way by more than one company acting in full or in part together.

Do ensure appropriate access (objective, transparent and non-discriminatory) to your activities when acting in a particular group such as a Consortia or SIEF (*for more details see Cefic main guidance on REACH Competition Law Rules Compliance).*

How to conduct discussions

If when cooperating in the Authorisation process companies may wish to engage in discussions potentially leading to de-selection and even substance substitution. Due to the sensitivity of such discussions companies need to be aware of what is and what is not allowed under competition law rules, in particular the requirement to decide autonomously on market relevant behaviour.

Do properly organise and document the discussion on Authorisation and make sure all participants know what may be discussed and what must not be discussed (eg future market behaviour), and for this; and,

Do refer to the existing *Cefic main guidance on REACH Competition Law Rules Compliance* for the exchange of information and use an independent third party or trustee if needed.

Participation in formal or informal stakeholder consultation from ECHA or Member State Competent Authority – Advocacy[ii] (Annex XIV and Annex XV dossiers)

In the context of consultation companies may act individually or together within a group. Advocacy of a group would normally not raise EU competition law concerns. REACH, and in particular the Authorisation process, however, might trigger elimination of substances from the markets which would come as a natural result of the REACH legislation and not as a result of any anti-competitive agreement or concerted practice. When engaging in advocacy, pay attention to the way you communicate in order to avoid any misunderstanding and always remember:

Do make reference to objective criteria and be careful to avoid disclosing your commercial strategy when deciding upon arguments on which your advocacy is to be based;

Do present possible alternatives without unduly giving the impression that these are the only alternatives;

Do not misuse the process to either boycott a substance/use, or foreclose the market; and,

Do not use REACH advocacy as a tool to denigrate or boycott other substances/use, or producers/users, or non-European substances/uses or producers/users of other substances/use.

Talking to Clients, Users and other companies along the supply chain

These meetings may be sensitive from a competition law perspective.

Do make the distinction between general non-commercial contacts along the chain which can be made by companies acting together subject to the rules here below and individual commercial contacts between each company and their respective clients;

Do ensure all meetings have a proper written agenda communicated in advance, and proper minutes;

Do spend a few moments at the beginning of each of these meetings to remind the participants of the basics of EU competition law and REACH;

Do strictly restrict the topics discussed at meetings to those that do not raise competition law concerns, regardless of whether participants believe that certain topics are relevant REACH Authorisation issues;

Do stop the discussion if a meeting spills over into commercially sensitive topics which cannot be discussed;

Do not discuss commercially sensitive topics such as, but not limited to, prices, production volume, commercial strategy, individual or groups of customers; and,

Do not take advantage of these generic discussions, for example to, organise sharing/partitioning of clients between companies, division of market shares, division of sources of supply.

The Analysis of Alternative (AoA) and Socio Economic Analysis (SEA)

Parts of these two documents can be shared and others cannot be shared for competition law reasons. The way the production and process sharing of these documents is organised is of prime importance in view of the content of these two instruments which may be required for Authorisation such as:

Do always work via an independent third party acting as trustee for information that cannot be disclosed between competitors and/or Confidential business Information that downstream users may not wish to share (for example on uses and possible alternatives);

Such a trustee can also carry out joint AoAs, substitution plans or SEAs, particularly in those cases where a small number of competitors with large market shares wish to submit a group application;

Do consult potential applicants and others within the same supply chain at an early stage on what alternatives may be available and what the scope of the analysis of alternatives will be; and,

Do not presume that these AoAs, substitution plans, and SEAs can be handled by one of the companies co-operating by either signing a confidentiality agreement or building a "Chinese wall" as competition authorities may allege that such safeguards are insufficient.

This part of the guidance will be completed in its Second Edition to be soon published with regard to more detailed information to be provided by companies in these documents.

De-selection and substitution

De-selection and substitution is a decision to be taken by each individual company independently. The latter decision may be based on various considerations. However, once it is clear which uses and substances can be supported by each individual company, then further enquiry may be made to assess whether to work a collegial manner, while always remaining careful to observe competition law at all times. For this:

Do consider the group of potential applicants which may wish to submit a group application for the substance/use within your own supply chain and as regards the substance generally;

Do consider the relative pros and cons of group application taking into consideration the data required for the authorisation application (i.e. via 'adequate control route' or via 'SEA route'), sensitivity of data exchange/disclosure with particular entities, among other considerations;

Do assess all data to be exchanged and disclosed to other potential applicants during the application process whether in written/electronic form or verbally concerning, for example, data on use of a substance. If needed use an independent third party or trustee for this. Particularly in those cases where an applicant may be regarded as a competitor, avoid any sharing of sensitive data not objectively necessary or indispensable for the application process;

Do not exchange non-public information on costs of operation, production or distribution, or individual company information on sources of supply, costs of supply, inventories, sales, prices, profitability, and consider whether this data will be required for the application (e.g. as part of SEA); and,

Do not exchange non-public information as regards to present or future plans of individual companies concerning technology, investments, design, production, distribution or marketing of particular products.

This part of the Guidance will be completed in its Second Edition to be soon published to further develop how far company can work together on this.

Testing potential substituting substances – uses

Companies may legitimately decide to engage in joint research on suitable alternative substance/use or technology. However, it is essential that such testing be conducted in compliance with competition law, in particular as specifically giving guidance to joint research (and development). In particular, the decision whether or not to use or commercialize a given substance/use that passed the screening and testing phase or to defend it with Authorities is for each individual company to decide independently.

This part of the Guidance will be completed in its Second Edition having regard to the new competition law rules of the Commission on R&D, and Guidelines on horizontal agreements both adopted on 14th December 2010.

MODEL OF COMPANY INDIVIDUAL OPINION SURVEY TO BE CONDUCTED BY A TRUSTEE

This model can be adapted to the needs of each group and trustee to the various steps of the REACH Authorisation process.

This REACH Authorisation written survey is organized by an independent third party or trustee addressed to several companies on the following subject……

……*[introduce the purpose of this Survey]*

Please indicate your comment on the following questions :

- ……
- ……
- ……

Responses are to be sent, in writing, at the latest by …….. These will be considered by the trustee for managing …… in the REACH Authorisation process.

Please note that responses should be prepared by each individual company based on its own, individual judgment and without discussing these with other companies. In addition, since decisions needs to be taken individually, do not share your response with other companies. The results of this survey will be used by the trustee in an appropriate form which fully complies with competition law rules.

This part of the Guidance will be completed in its Second Edition to be soon published with additional options/models.

IMPORTANT NOTE: readers of this guidance should not presume that they know all there is to know about possible application of EU competition law to REACH Authorisation just by reading this document which is designed to allow companies involved into this to make a preliminary assessment of their conduct under EU competition law. They should seek legal advice if needed, well on time.

For Cefic and its members: for further clarification and questions, contact Nicole L Maréchal, Cefic Senior Legal Counsellor & Governance Officer Tel. + 32 2 676 72 18– E-mail: nma@cefic.be

Avenue Van Nieuwenhuyse 4

B-1160 Brussels, Belgium

www.cefic.eu

[i] Competition law rules in the EU: Articles 101 & 102 TFEU (formerly Articles 81 & 82). This guidance is focused on the application of Article 101 (Cartels). However, application of Article 102 (Abuse of Dominant Position) should not be excluded.

[ii] For Cefic members see also *Cefic Guidelines on Advocacy and Communication.*

ANNEX 3 - LIST OF CONSORTIUM MEMBERS

Mr./Mrs.
Company
Tel:
Fax:
Tel direct line:
Mobile phone:
E-mail:

Affiliates: _____

_____

_____

Mr./Mrs.
Company
Tel:
Fax:
Tel direct line:
Mobile phone:
E-mail:

Affiliates: _____

_____

_____

ANNEX 4 - CONTACT DETAILS

(including of nominated representatives in various bodies of the Consortium)

Steering Committee Representatives

Mr./Mrs.
Company:
Address:
Tel:
Fax:
Tel direct line:
Mobile phone:
E-mail:

Mr./Mrs.
Company:
Address:
Tel:
Fax:
Tel direct line:
Mobile phone:
E-mail:

Technical Committee Representatives

Mr./Mrs.
Company:
Address:
Tel:
Fax:
Tel direct line:
Mobile phone:
E-mail:

Mr./Mrs.
Company:
Address:
Tel:
Fax:
Tel direct line:
Mobile phone:
E-mail:

Mr./Mrs.
Company:
Address:
Tel:
Fax:
Tel direct line:
Mobile phone:
E-mail:

ANNEX 5 - WORK AND FINANCE PLAN

Annex 5 (Part 1) - Work Plan

Task	Deadline
Communication with third parties about set-up of Consortium, press release etc.	January 2012
Signature and entry into effect Consortium and pre-funding	March 15, 2012
Kick-off meeting determining final list of uses depending on notifications from Members to be organized shortly after Effective Date	May 22, 2012
Selection of technical consultant	June 2012
Conclusion of works	May 2014 (assuming Nov. 2014 would be latest application date)

Annex 5 (Part 2) - Finance Plan - DRAFT

Chromium Trioxide REACH Authorization Consortium: Phase 2 Budget Analysis - assumption 50 Members (figures will be adjusted proportionally based on the number of Consortium Members)											
Consortium Management		**2012 Budget**			**2013 Budget**			**2014 Budget**			
		Events	Cost (Euro)		Events	Cost (Euro)		Events	Cost (Euro)		
Third Party communication for signing up Consortium	MLA		€	25,000		€	-		€	-	
Third Party communication	MLA		€	-		€	-		€	5,000	
Steering Committee meetings - attend & chair, establish agenda and action plan, prepare minutes and maintain a clear record of decisions and votes	MLA	2	€	23,040	2	€	24,192	1	€	12,701	
Ad-hoc Legal Advice (estimate)	MLA		€	10,000		€	11,500		€	-	
Annual management and archiving fee	MLA		€	50,000		€	52,500		€	27,563	
Financial management	MLA		€	50,000		€	52,500		€	27,563	
Extranet	MLA		€	5,000		€	5,000		€	5,000	
LoA Management - On line IT Tool	MLA		€	-		€	5,000		€	-	
Assistance in setting up Technical Committee and provision of services as required, in particular review of minutes (not including sub-groups)	MLA	6	€	11,760	6	€	12,348	3	€	6,483	
Various Expenses (including meeting room reservations) - estimate	MLA		€	10,000		€	10,000		€	5,000	
Total Consortium Management Cost (including annual adjustment of fees)			**€**	**184,800**		**€**	**173,040**		**€**	**89,309**	
Dossier Preparation		**2012 Budget**			**2013 Budget**			**2014 Budget**			
		Events	Cost (Euro)		Events	Cost (Euro)		Events	Cost (Euro)		
Technical Consultant - Dossier preparation			€	250,000		€	500,000		€	250,000	
Total Dossier Preparation Costs			**€**	**250,000**		**€**	**500,000**		**€**	**250,000**	
TOTAL CONSORTIUM MANAGEMENT & DOSSIER PREPARATION COSTS (excl. LoA management)			**€**	**434,800**		**€**	**673,040**		**€**	**339,309**	
LoA Management - based on 50 LoAs (€1,500 per LoA) - estimate - will be ultimately charged back to LoA applicants	MLA		€	-		€	-	100	€	150,000	

AMENDMENTS TO CONSORTIUM AGREEMENT
FOR PURPOSES OF REACH AUTHORIZATION
CHROMIUM TRIOXIDE

AMENDMENT 1

By vote at the kick-off meeting of May 22, 2012 the following provision was inserted after Article 3(1) CA 'Membership':

"Article 3 (1) bis

> *Third parties will be considered as Members as of the Effective Date if they have fulfilled their Member obligations under Article 3 (1) by June 15, 2012 latest.*"

AMENDMENT 2

By vote at the Steering Committee meeting of February 20, 2013, the following provision was inserted as a footnote in Annex 1 (Uses), Part 1 Section (5) CA:

> *"EN 15205 is to be used as the standard of detection of chromium VI to distinguish between Uses 4 and 5. If a Member wishes to use another standard, the Member has to prove that it is equally sensitive."*

AMENDMENT 3

By vote at the Steering Committee meeting of February 20, 2013, the last sentence of Annex 1 (Uses), Part 1 Section (5) CA was amended as follows (insertion of words in bold):

> *"It also includes pre-treatments such as brightening, electrolytic de-burring, chemical polishing, pickling and etching of metals **or other materials** where the process is unrelated to Uses (2) or (3).*

AMENDMENT 4

By written vote in June 2013, Annex 1 (Uses), Part 1 Section (3) CA was amended as follows:

> "*Decorative plating"* is replaced by "*Functional plating with decorative character*".