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BRIEFING PAPER
December 23, 2011

Chromium Trioxide REACH Authorization – Launch of Industry Consortium to Prepare Authorization

(for public dissemination to interested parties)

Background

- On December 21, 2011 ECHA recommended chromium trioxide (Chromium (VI) trioxide EC No. 215-607-8) for entry into Annex XIV REACH (substances subject to authorization).
- According to ECHA's planning, the European Commission should enter chromium trioxide into Annex XIV REACH by February 2013.
- If this timing will be maintained by the European Commission, any companies seeking authorization would be required to file their applications by November 2014 (latest application date).
- The 'sunset date' for use of chromium trioxide without corresponding authorization would be May 2016.
- A task force consisting of 23 companies and groups of companies from all over Europe on December 21, 2011 finished its work exploring possible industry cooperation for the authorization phase.

Issue

- Given the widespread and varied use of chromium trioxide in industry and specifically among a large number of small companies, efficiencies of scale need to be sought to file authorization applications.
- It is for this reason that the task force constituted itself in August 2011 to explore the scope of industry cooperation for authorization.
- The task force has identified seven uses for which cooperation should be envisaged and has drafted an agreement (Consortium Agreement) for all interested parties (manufacturers, importers and downstream users (including formulators) of chromium trioxide) to sign by March 15, 2012 if they wish to cooperate on drafting of the authorization dossier(s).

Details Consortium Agreement

- The Consortium will prepare authorization dossiers (for use by members) for the following seven chromium trioxide uses: (1) Formulation of preparations; (2) Functional chrome plating; (3) Decorative plating; (4) Other surface treatment **with** Chromium VI present on the end product (article); (5) Other surface treatment with **no** Chromium VI present at detection limit on the end product (article); (6) Catalysts; (7) Small scale laboratory use.

- Consortium costs will be divided into common costs and costs per use. Larger companies will pay a higher share of costs than smaller companies. Large companies will pay 4 shares, mid-size companies 3 shares, small companies 2 shares, and micro companies 1 share.
- If it becomes apparent after the sign-in period that individual uses will be supported only by very few companies leading to proportionally higher cost for the other companies interested in the specific use, the initially interested companies may withdraw from their use ('cooling-off period').
- Any company not signing up by March 15, 2012 may purchase a letter of access at the time the authorization dossier will be finalized, at an additional 30% of the price calculated at dossier finalization.
- The Consortium will be managed by a third party manager and will engage consultants for the technical work and any handling of commercially sensitive information. All decisions will be taken by a Steering Committee consisting of all members (2/3 majority voting) and all technical work will be supervised by a Technical Committee. Further sub-groups may have to be established. Members that pay a higher cost share will have a larger number of votes (1 to 4 votes). Members are not entitled to vote on any items for which they do not pay (e.g. uses in which they are not engaged in).
- The total cost to be divided among Consortium members is currently estimated to be approx. €1.5 Million. However, given that it is at this time unknown how many companies will sign up and for which uses; whether these companies will be large or small; and whether the use categories designed will have to be further subdivided to secure authorization, it is difficult if not impossible to estimate the cost per member at this time. Some possible cost scenarios are attached. The more companies sign up, the less costly will it be for the individual companies.

Next Steps

- Please express your interest in the Consortium by writing an email to uschliessner@mckennalong.com.
- You will then receive on January 16, 2012 a copy of the Consortium Agreement for your signature.
- If you wish to become a member of the Consortium please sign the Consortium Agreement, and send the signature page plus your list of uses to uschliessner@mckennalong.com by **March 15, 2012.** Please note that you may revise your list of uses in May 2012 (exact date to be announced).

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