ANTONIO TAJANI
Vice-President of the European Commission
Industry and Entrepreneurship

JANEZ POTOČNIK
Member of the European Commission
Environment

Brussels, 19 09. 2012
Ares(2012) 1088639

Dear Mr Sessler,

Thank you for your letter received on 3 July 2012 concerning the possible impact on downstream users of the inclusion of five cobalt salts in Annex XIV of REACH as recommended by ECHA. We appreciate the detailed information on the uses of these salts in different sectors. The delay in providing this reply is due to the complexity of the issue at hand.

The Commission is currently considering the ECHA recommendation and is going to submit a draft amendment of Annex XIV to the REACH Committee before the end of the year, in accordance with the regulatory procedure with scrutiny referred to in Article 133(4) of REACH. Please note that at that point the draft measure will also be made publicly available via the Commission's Comitology Register[1].

In your letter you are pointing at a number of possible socio-economic impacts that could derive from the inclusion of the five cobalt salts in Annex XIV. We would like to underline that, in line with the provisions of REACH, these considerations are not relevant at this stage, but would be fundamental during the following phase (i.e. application for an authorisation). Moreover, the procedure for including substances in Annex XIV laid down in Article 58 of the Regulation does not foresee a socio-economic assessment, because authorisation is not aimed at a total ban of substances but still may allow for their uses, under specific conditions. Were the cobalt salts in question listed in Annex XIV, authorisation requirement would apply for all uses of those substances and, in this phase, any information on the use-specific controlled process, the lack of alternatives and the socio-economic consequences of not granting an authorisation would be fundamental.

Mr Berthold Sessler
President
CETS (European Committee for Surface Treatment)
Kapeldree,f 60
3001 Leuven

[1] http://ec.europa.eu/transparency/regcomitology/index.cfm?CLX=en

As regards the impact on downstream users, especially SMEs, we would like to underline that authorisation does not necessarily have to be held by the downstream users, but may instead be obtained by the manufacturer or importer of the substance, covering the uses for which he supplies the substance. In that case, in accordance with Article 56(2) of the REACH Regulation, downstream users may use the substance, provided that the use is in accordance with the conditions of the granted authorisation.

Yours sincerely,

Antonio Tajani *Janez Potočnik*

Following recipients received the same letter:

ECMA (European Catalysts Manufacturers Association)
Dominique de Halleux
Secretary General

CPME (Committee of PET Manufacturers in Europe)
Stephen A.Short
Chairman

LPK (Lithuanian Confederation of Industrialists)
Gediminas Rainys
Director General

EuropaBio (European Association for Bioindustries)
Nathalie Moll
Secretary General

EDMA (European Diagnostics Manufacturers Association)
Jesus Rueda Rodriguez
Director Regulatory Affairs

LEWIATAN (Polish Confederation of Private Employers)
Lech Pilawski
Director General