TSGE CONSULTING

Proposal for a Data call-in system for active substance review (renewal)

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Executive summary

This document presents a proposal for the establishment of a data call-in (DCI) system for active substance renewal.

DCI systems have worked and continue to work successfully in many other regulatory regimes worldwide.

The benefits are set out in this document. The principle aim of the proposed system is to ensure sufficient information is available to meet current requirements and reliably support registration decisions that are protective of human health and the environment while avoiding the generation and evaluation of data that does not materially influence the scientific certainty of a regulatory decision. It is considered that this offers savings in terms of time and resource as well as increasing the consistency and predictability of the overall regulatory process.

The principle of prioritising and requiring only the submission of necessary data is considered to be compatible with the current Regulation and, in particular, Article 18 which provides for a framework that sets "*priorities on the basis of safety concerns for human and animal health or the environment"* and provides for **'***necessary data'* to be submitted to the regulatory Authorities.

The changes proposed in the document represent no reduction in the standards established by Regulation 1107/2009 and it is considered that the proposed options set out in the main body of this document can be implemented without the need for amendment of Regulation 1107/2009.

Two procedural options are presented in the document. Option 1, where the initial lead in drafting the data call-in Notice (DCIN) is taken by the Regulatory Authorities and Option 2, where industry make the initial proposal.

Both options include early engagement by all regulatory Authorities in an open and transparent process with the final decision on the content of the DCIN taken by the regulatory Authorities. Overall, Option 1 is the more favoured option as the lead is taken by the Authorities and therefore the initial proposal is more clearly independent of industry, however, Option 2 provides a similarly robust, independent and transparent process for the regulatory Authorities to agree the content of the DCIN. Both the options include a public consultation step to ensure all stakeholders have the opportunity to participate in determining the necessary data required to conduct an appropriate risk assessment.

It is acknowledged that the move to a DCI system could be further developed and greater advantages obtained by some specific changes to the existing legislation. These proposals for longer-term legislative change are set out in the Annex to the document and further efficiency gains and broader regulatory benefits would follow from these changes.

1. Background – proposal and overall aim

This document sets out a proposal for the establishment of a data call-in (DCI) system for active substance renewal.

Such systems are in place in regulatory regimes worldwide most notably the US Environmental Protection Agency (EPA); the Canadian Pest Management Regulatory Agency (PMRA) and the Australian Pesticides and Veterinary Medicines Authority (APVMA).

A data call-in system brings advantages to regulators and industry as well as other stakeholders.

In the next few years all active substances approved for use in plant protection products on the EU market will have been independently assessed by the European Food Safety Authority (EFSA). The EFSA conclusions underpin the Community understanding of the hazards and risks associated with individual substances and provide an independent baseline from which, together with other information, the specific data necessary to address new scientific and technical knowledge in the context of future active substance reviews can be defined.

The move to an agreed and defined set of necessary data requirements, focussed on clearly identified areas of regulatory concern, offers savings in terms of time and resource as well as increasing the consistency and predictability of the overall regulatory process.

In common with the use of such systems in other regimes, the principle aim of a data call-in system is to ensure sufficient information is available to meet current requirements and reliably support registration decisions that are protective of human health and the environment while avoiding the generation and evaluation of data that does not materially influence the scientific certainty of a regulatory decision.

A DCI system encourages one joint submission by all companies, thus avoiding the need for regulators to evaluate multiple submissions.

Therefore this document sets out clear and transparent options for establishing such a process to more efficiently and effectively determine the scope and requirements for future reviews.

2. Active substance renewal – overall framework and cross-cutting issues

2.1 Renewal process

The renewal process would be initiated by publishing a data call-in Notice.

The Notice would define the data required for the renewal and set the date for submission of the supplementary summary dossier.

Two options are proposed for defining the scope of the review and identification of the required data – either:

Option 1: an Authority initiated process to develop a review summary document (scoping document) and draft data call-in Notice; or,

Option 2: a producer (applicant) initiated process to develop a review summary document (scoping document) and draft data call-in Notice.

These options are presented in Section 3 below.

It is considered that a data call-in system is compatible with the current legislation and would require not revision of Regulation 1107/2009.

The principle of prioritising and requiring only the submission of necessary data is compatible with the current Regulation and, in particular, Article 18 which provides for a framework that sets "*priorities on the basis of safety concerns for human and animal health or the environment"* and provides for '***necessary data****'* to be submitted to the regulatory Authorities. The change represents no reduction in the standards established by Regulation 1107/2009.

The provisions of Article 21 remain to provide for earlier review should new information trigger specific concerns about a substance or group of substances. Under these circumstances the principles of the DCI process would also be followed, with a specific call for data to address the areas of concern identified.

The renewal process could therefore move to a data call-in system without the need to wait for amendment of the legislation however the system could be further improved with future legislative changes. The areas where future legislative changes would improve the process are set out in **Annex** to this document.

2.2 Potential for cross substance reviews

The move to a DCI system has the potential to better accommodate targeted cross-substance reviews. Should a regulatory need for a new study be identified, for example, in the context of new guidance that is relevant to multiple substances then having an established data call-in based approach would readily allow such a targeted review to be initiated.

2.2 Benefits for 'non-conventional' substances/biopesticides

A DCI system offers specific benefits for some biopesticides and substances of variable composition for which prescriptive data requirements are not available. The existing data requirements (with the exception of specific requirements for microbials) have developed over many decades primarily on the basis of supporting the registration of 'conventional' synthetic organic chemicals. As an example of the benefits, botanical active substances that are complex mixtures of naturally occurring components are not well accommodated by the existing requirements. A DCI system would facilitate a more systemic and predictable regulatory process for such substances with the Authorities agreeing the data required for a given substance and defining the areas where waivers would be accepted. Therefore the move to a DCI system would also help to support the broad policy objectives of many Member States and Parliament to encourage alternatives to traditional pesticides and to facilitate the registration of such alternatives.

3. Options

This document sets out two options for the data call-in process:

- The first option sets out the process whereby the Regulatory Authorities take the lead in determining the scope of the review and the determining the necessary data.
- The second option places the initial responsibility for proposing the scope of the review and identifying necessary data with industry.

Both options include early engagement by the regulatory Authorities in an open and transparent process with the final decision on the content of the DCIN taken by the regulatory Authorities. Overall, Option 1 is the more favoured option as the lead is taken by the Authorities and therefore the initial proposal is more clearly independent of industry, however, Option 2 provides a similarly robust, independent and transparent process for regulatory Authorities to agree the content of the DCIN.

3.1 Option 1: Regulatory Authority initiated DCI process

3.1.1 Review initiation process

The regulatory Authorities or a lead Authority initiates the process by commencing an initial assessment taking into account:

- the existing information supporting the active substance approval i.e. the submitted dossier, assessment report, EFSA conclusion and supporting documentation;
- available 'lead' Registration Reports supporting re-registration/Art. 43 authorisations renewal/new uses to determine the extent of post-approval data that may be available and any concerns raised in the context of recent product assessments;
- new requirements/changes in scientific and technical knowledge since the previous approval decision (new guidance/data requirements);
- available information from post-approval monitoring programmes that are relevant to the uses representative at the EU level.

The assessment is set out in a review summary document (or scoping document) that identifies amongst other things the information used in the assessment; the specific areas of potential regulatory concern for review and the rationale for the requirements being established. The document allows the complexity (scale and depth) of the review to be determined, for example, for some substances only limited new studies may be necessary to update environmental risk assessments with no additional human health studies being necessary, for other substances, where greater potential concerns are identified; a more comprehensive dossier may be required. The document also informs the timetable for the review.

The document includes the draft data call-in Notice (DCIN) identifying *only those data considered necessary to address the specific areas of regulatory concern identified*. This may include necessary existing studies identified as having been conducted since the last approval decision that have not been subject to Community level

consideration and any new studies necessary to address the areas of potential concern proposed for review. The draft DCIN sets out the proposed deadline for the submission of the review supplementary dossier (i.e. sets a period for study generation and dossier compilation).

Open consultation

The review summary document (scoping document) and draft DCIN is made available for consultation by the regulatory Authorities and also for public comment by authorisation holders/potential producers (notifiers) and third parties.

Comments provided are passed to the regulatory Authorities or a lead Authority for collation.

At this point further discussion (teleconference discussion/meeting) may be required with producers/applicants to clarify any uncertainties that have arisen as a result of the commenting process (such as clarifications on areas of concern, products/uses, studies/study timelines etc.).

The collated comments are considered by the regulatory Authorities. The Authorities are responsible for maintaining consistency between substances and resolving disagreements. The process results a final review summary document (scoping document) and DCIN.

The finalised review summary document (scoping document) and DCIN is then published with a set deadline for dossier submission. The deadline set for the submission takes into account producers (notifiers) information on the time for study generation and a standard period for supplementary dossier compilation.

Timeline:

- Initial assessment and production of review summary document (scoping document) and draft DCIN - 2 months
- Commenting – 2 months. This would be a public commenting process to allow input from all stakeholders.
- Compilation of comments and finalisation of review summary (scoping document) and DCIN – 2 months

The active engagement of all parties at an early stage in an open and transparent process for defining the scope and requirements of the review will improve consistency and encourage collaboration between notifiers. A DCIN setting out one common set of dossier requirements would stimulate joint submission and avoid the Authorities having to review multiple submissions for the same active substance.

3.1.2 Notification of support

Six months after publication of the DCIN, notifications of support are required from producers (notifiers).

The notifications set out details of the supporting company; contact details and provide confirmation that the necessary studies are available/being generated. Admissible notifications are published and the expectation is that companies will

submit jointly. Non-approval decisions are taken for any substances for which a notification is not received by the deadline.

This initial step ensures unsupported substances are removed from the EU market. The process also fosters co-operation between producers (notifiers).

3.1.3 DCIN – data submission deadline

At this point the supplementary dossier(s) are submitted.

A standard admissibility process is followed.

This requires no additional changes in procedure or legislative provisions

3.1.4 Post submission

Admissible submissions follow the standard renewal process i.e. evaluation, production of assessment report and EFSA peer review. It is envisaged that a standard stop the clock period would be retained so that minor clarifications/requests for information could be accommodated in the risk assessment process. The EFSA conclusion is finalised in the normal way.

Resources are focussed only on the evaluation of the necessary data submitted to address the areas of concern identified. This will result in appreciable savings as resources are not allocated to areas that have no influence on the scientific risk assessments underpinning the areas of regulatory concern.

3.1.5 EFSA conclusion

No new critical data gaps identified

If the areas of concern are addressed and no new critical data gaps are identified the EFSA conclusion can be finalised and the normal decision making process followed.

Additional critical data required

If the EFSA conclusion identifies that specific additional data are required, to address fully the areas of concern being addressed in the review, this is set out in the draft EFSA conclusion along with a draft DCIN for the additional data. This is commented on by Member States in the process for commenting on the draft EFSA conclusion and a final DCIN drafted, along with the EFSA conclusion, setting a period for the submission of the additional data.

The EFSA conclusion would be regarded as an interim position on the risk assessment however the conclusion and DCIN would be considered by the Commission and Member States in the context of the SCoPAFF and any interim restrictions and specific provisions imposed if necessary and the DCIN published.

This allows a period of further data generation to ensure all areas of concern can be resolved. It removes the need for confirmatory data as this can be dealt in the context of the further DCIN. It allows for any necessary restrictions and specific provisions to be set pending the submission of the further information.

3.2 Option 2: Producer (notifier) initiated DCI process

3.2.1 Review initiation process

Each producer (notifier) intending to support continued approval of the active substance has to submit a proposal to the regulatory Authorities or a lead Authority by a set deadline setting out the areas for review and the identifying the necessary data.

Producers (notifiers) would be strongly encouraged at the outset to collaborate in the developing the proposal and draft DCIN. The proposal has to be fully justified and has to take in to account:

- the existing information supporting the active substance approval i.e. the submitted dossier, assessment report, EFSA conclusion and supporting documentation;
- any available post-approval data generated and risk assessments conducted in the context of supporting re-registration/Art. 43 authorisations renewal/new uses that are relevant for the active substance evaluation;
- new requirements/changes in scientific and technical knowledge since the previous approval decision (new guidance/data requirements);
- available information from post-approval monitoring programmes.

The assessment of the producer (notifier) is set out in a draft review summary document (scoping document) that identifies amongst other things the information used in the assessment; the specific areas of potential regulatory concern for review and the rationale for the requirements being established. The document allows the complexity (scale and depth) of the review to be determined, for example, for some substances only limited new studies may be necessary to update environmental risk assessments with no additional human health studies being necessary, for other substances, where greater potential concerns are identified; a more comprehensive dossier may be required. The document includes a proposal for a DCIN identifying only those data considered necessary to address the specific areas of regulatory concern identified**.**

This may include necessary existing studies identified as having been conducted since the approval decision that have not been subject to Community level consideration and any new studies necessary to address the areas of potential concern proposed for review. The draft DCIN sets out a proposed deadline for the submission of the review supplementary dossier (i.e. sets a period for study generation and dossier compilation).

Open consultation

This process is the same as that set out for Option 1. The review summary document(s) (scoping document) and draft DCIN(s) are made available for consultation by the regulatory Authorities and also for public comment by authorisation holders/potential producers (notifiers) and third parties.

Comments provided are passed to the regulatory Authorities or a lead Authority for collation.

At this point further discussion (teleconference discussion/meeting) may be required with producers/applicants to clarify any uncertainties that have arisen as a result of the commenting process (such as clarifications on areas of concern, products/uses, studies/study timelines etc.).

The collated comments are considered by the regulatory Authorities. The Authorities are responsible for maintaining consistency between substances and resolving disagreements. The process results a final review summary document (scoping document) and DCIN.

The finalised review summary document (scoping document) and DCIN is then published with a set deadline for dossier submission. The deadline set for the submission takes into account producers (notifiers) information on the time for study generation and a standard period for supplementary dossier compilation.

Timeline

- Commenting 3 months. As for option 1, this would be a public commenting process to allow input from all stakeholders. A longer period is allowed than under Option 1 given that multiple documents may be involved and no Authority has been involved in preliminary work. In addition a longer period allows different producers (notifiers) to initiate contacts and seek a consolidated position on areas of difference if this has not already taken place.
- Compilation of comments and finalisation of review summary (scoping document) and DCIN – 3 months (again longer than under Option 1 given that multiple documents may be involved).

As with Option 1, the active engagement of all parties in an open and transparent process for defining the scope and requirements of the review will improve consistency and encourage collaboration between notifiers. A DCIN setting out one common set of dossier requirements would stimulate joint submission and avoid the Authorities having to review multiple submissions for the same active substance.

3.2.2 Notification of support

Process as set out under 3.1.2

3.2.3 DCIN – data submission deadline

Process as set out under 3.1.3

3.2.4 Post submission

Process as set out under 3.1.4

3.2.5 EFSA conclusion

Process as set out under 3.1.5

Overall conclusion

Resources are limited across all Member States and the renewal process represents a significant resource burden on both regulatory Authorities and industry. This burden can be reduced by a move to a data call-in system without reducing the standards established by Regulation 1107/2009 and without the lessening the protection goals agreed by Member States

Such a move can be made without amendment of Regulation 1107/2009 and would result in immediate efficiency gains for all parties, including the public, by avoiding the generation and evaluation of data that does not materially influence the scientific certainty of regulatory decision making and focussing finite specialist scientific and regulatory resources on the data underpinning human and animal health and the environment.

Once implemented, under the existing legislation, the data call-in system outlined in the main body of this paper can then be developed by further legislative change (as set out in the Annex) to ensure efficiency gains are maximised and additional regulatory benefits are obtained.

Legislative change proposals for the future development of the data call-in approach

There are some additional elements that require legislative change that would build on the DCI system and increase the benefits of the system to all parties.

These areas, requiring legislative change, are listed below:

1. **Removal of expiry dates for active substance approval**

   It is proposed that active substances should be approved without a date being set for the expiry of the approval.

   The expiry date is replaced by a review initiation date.

   The review initiation date is set in the context of the Standing Committee when the approval decision (first approval/renewal of approval) is taken. The date is established taking into account the overall profile of the active substance in relation to human and animal health and the environment. Different review timelines could be established for different groups of substances with low risk substances being subject to significantly longer review periods. At the review initiation date the process starts with a consideration of the previous assessment, the availability of new information (new studies, monitoring information) and the potential impact of new guidance/data requirements on risk assessments.

   Replacing expiry dates with review initiation dates removes the administrative burden associated with repeated expiry date extensions. Between 2011 and end May 2017 there have been 19 Regulations putting in place over 250 expiry date extensions.

   The establishment of realistic and prioritised approval review dates ensures that this burden is removed and that substances of greatest potential regulatory concern can be prioritised within a comprehensive review programme. This would better implement the principle behind Article 18 of the current Regulation which allows for the setting of "***priorities on the basis of safety concerns for human and animal health or the environment***" and provides for '*necessary data'* to be submitted to the regulatory Authorities.

Replacing expiry dates with review initiation dates removes the administrative burden associated with repeated expiry date extensions.

Between 2011 and end May 2017 there have been 19 Regulations putting in place over 250 expiry date extensions.

The establishment of realistic and prioritised approval review dates ensures that this burden is removed and that substances of greatest potential regulatory concern can be prioritised within a comprehensive review programme.

2. Amendment of the data sharing provisions of the Regulation

At present Article 61 of Regulation 1107/2009 sets out general rules on the avoidance of duplicate testing and Article 62 sets out specific provisions on the sharing of tests and studies involving vertebrate animals. Regulation 844/2012 setting out the active substance renewal procedures sets out a general obligation for applicants to take all reasonable steps to submit a joint dossier.

It is proposed that a more comprehensive data compensation scheme be established covering both vertebrate and non-vertebrate data (with exclusive use provisions for first approval and registration) to ensure submission of joint dossiers.

Amendment of the data sharing provisions would underpin submission of a single dossier and, in consequence, significantly reduce workloads in the active substance process and subsequently at product authorisation.

3. Start of data protection period for renewal data

Article 59 of Regulation 1107/2009 sets out the data protection rules. A period of 30 months protection is provided for eligible renewal data with the data protection period starting at the date of renewal of existing authorisations in each Member State.

Under a DCI system the Authorities establish the list of studies required for renewal and a period is provided for the generation of the necessary data. Given that the submission is for specific studies determined to be necessary by the Regulatory Authorities and these studies will be relied on to support the active substance in a formal review, it is proposed that it should be the date of submission of an admissible renewal dossier that marks the point at which the data protection period starts. At the deadline, in addition to the supplementary dossier submissions from the producers (notifiers), all dependant authorisation holders would be expected to submit a letter of access to the submitted data. It is expected that these will be submitted on a Member State basis. Any product authorisations not supported at this point by an admissible dossier or letter of access to an admissible dossier will be subject to revocation with standard phase-out periods.

This change would provide a simple and clear basis for the administration of the data protection provisions by Member States and therefore have consequential resource savings. It would ensure a common starting point for data protection at a Community level and would remove the uncertainty associated with the identification of data protection periods at a Member State level. It would be transparent to all parties and would ensure that only products supported by an admissible renewal dossier or letter of access to such a dossier would be allowed to continue on the EU market. It would also increase public trust in the regulatory process by removing products at an early stage across the Community that were not supported by an appropriate modern regulatory dossier.