DECISION OF THE MANAGEMENT BOARD ON THE FINANCIAL ARRANGEMENTS FOR THE TRANSFER OF A PROPORTION OF FEES TO THE MEMBER STATES

THE MANAGEMENT BOARD,


WHEREAS,

1. A proportion of the fees collected by the European Chemicals Agency (hereinafter referred to as “the Agency”) should be transferred to the relevant Member State Competent Authority for work done in the context of a substance evaluation procedure or for rapporteur work done in the Risk Assessment Committee and the Committee for Socio-economic Analysis (hereinafter referred to as “the Committees”) in the context of restrictions proposals or of applications for authorisation pursuant to Regulation (EC) No 1907/2006.

2. It is for the Management Board, following a favourable opinion from the Commission, to establish financial arrangements for such transfers, including the amounts to be transferred.

3. The amounts to be transferred should be fixed in compliance with the principle of economy, efficiency and effectiveness and at a level that ensures that the Agency continues to have available sufficient financial resources to undertake its tasks as defined in Regulation (EC) No 1907/2006, having regard to its existing budgetary appropriations and pluriannual estimates of income, including the planned European Union subsidy as laid down in the Communication from the Commission on the programming of human and financial resources for decentralised agencies for the period 2014-2020 (COM(2013)519).

4. In fixing the amounts to be transferred account should be taken of the workload and related costs of the Competent Authorities of the Member States. The amounts transferred are not in all cases foreseen to compensate for the entire costs occurring to the Member State Competent Authorities.

5. The amounts to be transferred envisaged in this Decision have been calculated on the basis of experience gained and reports on time spent received from the Member State Competent Authorities.
6. Differences in earnings and cost of living of the different Member States should also be taken into account.

7. The average earnings index used for calculating the scale of payments in annex to this Decision is based on the latest data made available by Eurostat. Updated data is expected to be made available by Eurostat at the earliest in 2016 and can be taken into account in the course of the next revision of this Decision.

8. As foreseen by Regulation (EC) No 340/2008, a maximum proportion of the fees to be transferred to the Competent Authorities should be set on a plurianual basis.

9. Where the Committees decide to appoint a co-rapporteur, the transfer should be divided between the rapporteur and the co-rapporteur.

10. The provision of services by Committee members should be governed by a written contract between the Agency and the employer of the person concerned.


HAS DECIDED AS FOLLOWS:

Article 1

Scope of transfer

1. A transfer of a proportion of fees received by the Agency shall apply to

   - The conclusion of a substance evaluation procedure pursuant to Regulation (EC) No 1907/2006 by a Member State Competent Authority;
   - Rapporteur work done in the Risk Assessment Committee and the Committee for Socio-economic Analysis in the context of a restrictions proposal pursuant to Regulation (EC) No 1907/2006;
   - Rapporteur work done in the Committee for Risk Assessment and the Committee for Socio-economic analysis in the context of an authorisation application pursuant to Regulation (EC) No 1907/2006.

2. Transfers shall not be paid for such work emanating from tasks related to transitional measures defined in Articles 135-137 of Regulation (EC) No 1907/2006.

Article 2

Scale of payments

1. The scale of payments for substance evaluation and rapporteurs work in restriction processes is set in an Annex to this Decision. The payments are calculated on the basis of the maximum workload of

   - (a) Substance evaluation
      - Up to 75 days in 2015, 70 in 2016 and 65 in 2017; ¹

¹The evaluation of similar substances can be subject to a specific agreement between the Agency
Management Board Decision 45/2014

3(8)

Internal (reference to document MB/34/2014)

17/12/2014

(b) Restriction

- Up to 25 days for RAC rapporteur work;
- Up to 30 days for SEAC rapporteur work,
multiplied by the Agency’s daily rate, representing the average cost for similar
work at the Agency and including overhead cost, and adjusted with a correction
coefficient.

2. Payments shall be limited to the number of days reported by the evaluating
Member State or rapporteurs when lower than the number of reference days
mentioned in paragraph 1.

3. The scale of payment for rapporteurs work done in the context of authorisation
applications per rapporteur of each Committee will consist of 12.5% of the
application specific base fee and, where relevant, additional application specific
fees determined as follows:

- The application specific base fee shall, irrespective of the applicant being a
non-SME, medium, small or micro enterprise as defined in Article 2 of
Regulation (EC) No 340/2008 consist of 76.6% of the standard base fee as
set out in Table 1 of Annex VI to that Regulation.
- Additional application specific fees shall, irrespective of the applicant being a
non-SME, medium, small or micro enterprise as defined in Article 2 of
Regulation (EC) No 340/2008, consist of 76.6% of the standard additional
fees as set out in Table 1 of Annex VI to that Regulation.

The application specific base and additional fees shall be adjusted with a correction
coefficient.

4. The correction coefficients laid down in the Annex may be updated annually by a
decision of the Executive Director of the Agency when new statistical information is
available at Eurostat. For the Member States for which 2010 Eurostat data was not
yet available at the time of this Decision the correction coefficients laid down in the
Annex should be updated by a decision of the Executive Director when new
statistical information is available at Eurostat. The index of the preceding reference
year shall be used for Member States for which new information is not available.

5. The correction coefficient comprises 50% of the Price Level Index\(^2\) and 50% of the
Index of average earnings\(^3\) published by Eurostat as laid down in the Annex.

6. Any review shall be without prejudice to the principles of economy, efficiency, and
effectiveness, and the need to ensure that the Agency has sufficient resources
available to undertake its tasks as defined in Regulation (EC) No 1907/2006,
having regard to its existing budgetary appropriations and pluriannual estimates of
income, including a Community subsidy.

and the evaluating Member State for a proportional reduction of the payment.

\(^2\) Comparative price levels of final consumption by private households including indirect taxes (EU-
27=100)

\(^3\) Average annual gross earnings by economic activity - NACE Rev. 2
Management Board Decision 45/2014 4(8)
Internal (reference to document MB/34/2014)
17/12/2014

Article 3
Collecting data on actual workload and salary cost

In carrying out tasks referred to in Article 1(1), the respective rapporteur or the Member State Competent Authority shall fill in time sheets provided by the Agency to establish the actual time spent. These shall be forwarded to the Agency.

Article 4
Contractual arrangements

1. Each Member State shall nominate entities, including a Member State Competent Authority, which shall be parties to a Framework Contract with the Agency for the payment of the amounts to be transferred under this Decision.

2. The Executive Director shall put in place the necessary contractual and administrative arrangements in conformity with the financial rules applicable to the Agency.

Article 5
Payments

1. A transfer is only payable where a contract for the work to be executed has been signed between the Agency and the parties to the Framework Contract referred to in Article 4(1), and the tasks have been carried out according to the contract.

2. On request by a Competent Authority, an advance payment of a maximum of 30% of a total amount transferable under substance evaluation to a Member State Competent Authority shall be authorised at the time of signing of the Service Agreement for a specific substance to be evaluated between it and the Agency. In the event that a Member State Competent Authority fails to complete the evaluation in accordance with the agreed-upon specifications, the advance payment shall be refunded to the Agency.

3. Payments shall be made in euros within 30 days of the date when the delivery of work was accepted either by the Committee concerned, or in the case of substance evaluation, by the Agency.

4. Where a Committee appoints a co-rapporteur, the transfer shall be divided according to the agreement on the division that the rapporteurs have communicated to the Agency and which has been included in the contract.
Article 6
The maximum proportion

1. For the period 2015-2017, the maximum proportion of the fees which can be transferred to Member States is fixed at

| a) 25% of the base fees related to authorisation applications and reviews as defined in Article 2(3) of this Decision | for rapporteur work done in the Committee for Risk Assessment and the Committee for Socio-economic analysis in the context of an authorisation application pursuant to Regulation (EC) No 1907/2006, and |
| b) 5% of the Agency’s registration fee income under Regulation (EC) No 1907/2006 for that period and the remaining fee reserve at 31.12.2014 | for the conclusion of a substance evaluation procedure by a Member State Competent Authority or rapporteur work done in the Risk Assessment Committee and the Committee for Socio-economic Analysis in the context of a restriction proposal pursuant to Regulation (EC) No 1907/2006; |

For the period 2015-2017, the overall ceiling in absolute amount of the fees which can be transferred to Member States is fixed at EUR 12.5 million.

2. The Agency shall continuously monitor the level of payments with a view to adjust the level of payments if there are indications that the limits set in paragraphs 1 and 2 may be exceeded.

Article 7
Review and reporting

1. The Management Board shall review the Decision at the latest in 2017 with a view to have a revised decision, applicable as of 1 January 2018.

2. Should the ceilings set in Article 6 be approached before the end of the period in 2017 or the work of Member States under Regulation (EC) No 1907/2006 be overly affected by the current arrangements, this Decision shall be revised without undue delay. To this end, the Management Board shall monitor the implementation of this decision regularly with the support of the secretariat of the Agency. A first review in this respect shall be undertaken by the Management Board at the latest twelve months after the application of this Decision.

3. A technical report monitoring the situation with regard to the ceiling will be presented to the Management Board bi-annually. At the end of 2015, a mid-term review will be launched.

4. In March 2016, a report shall be presented to the Management Board Working Group on transfer of fees which will report to the Management Board.
Article 8

Final provisions

1. This Decision and the estimates of income on which it is based are without prejudice to the Communication from the Commission on the Programming of human and financial resources for decentralised agencies for the period 2014-2020 (COM(2013)519).

2. This Decision shall apply from 1 January 2015. It shall repeal Decision MB/22/2012/D of the Management Board of 07 February 2013.

Nina CROMNIER
Chair of the Management Board
ANNEX

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<thead>
<tr>
<th></th>
<th>Index of average Earnings (A) 2010</th>
<th>Price level index (B) 2010</th>
<th>Averag e: 0,5A + 0,5B</th>
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4 The payment amounts are calculated on the basis of a daily rate of EUR 600 (8 hours) and applying the country-specific index for obtaining the payment amounts for each Member State.

5 2006 data corrected with the average salary increase in the EU over 2006-2010 for: Austria, Belgium, Italy, Luxembourg, Malta, Norway, and Portugal.
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