

Minutes of the 32nd meeting of the Management Board

Held in Helsinki from 17 to 18 December 2013

I. Summary record of the proceedings

The Chair opened the meeting by welcoming the participants.

She then informed the Board that Ms Liliana Luminița TÎRCHILĂ from Romania has been appointed by Council as a Management Board member in place of Ionuț GEORGESCU.

Furthermore, the mandates of Ms Anne LAPERROUZE and Ms Christina RUDÉN, independent persons appointed by the European Parliament, were prolonged for a second term in office of four years.

The names of other participants attending the meeting and the proxy votes of which the Chair was notified are listed in Annex IV of these minutes.

1. Agenda (MB/A/04/2013)

The Chair mentioned that additional items were foreseen under "Any other business":

- Next external meeting of the Board in 2014.
- Temporary derogation for the French Member State competent authority (MSCA) responsible for tasks under the Biocidal Products Regulation (BPR) from the requirements of the ECHA Unified IT Declaration.

Furthermore, the following room documents were introduced:

1. Amendments to the draft minutes.
2. Letter from the European Commission on the issue of a reserve fund for ECHA.
3. Revised proposal for the ECHA Financial Regulation, taking into account an informally received Commission opinion.
4. Directors Contact Group revised draft terms of work.
5. Summary report from the meeting with MSCA Directors on 20 November 2013, including updated planning tables on risk management activities.
6. Results of the survey on the new online collaboration tool used by ECHA for meetings of the Management Board.

It was agreed that agenda item 11 will be dealt with after agenda item 9.1.

The agenda of the meeting was then adopted.

2. Declaration of specific interests

The Chair informed the members of the Management Board that she reviewed the members' declared conflicts of interests, together with the Secretariat, in accordance with ECHA's policy on conflicts of interests. No conflicts relating to the agenda of the 32nd Management Board meeting were identified. The updated annual declaration of the Executive Director was also reviewed.

The Chair invited the members to further declare any specific interests that could not be drawn from their declarations of interests and which could be considered to be prejudicial to their independence with respect to the items on the agenda.

In reply to this, one Board member representing a Member State declared an issue of interest with regard to the prolongation of one alternate Board of Appeal member who used to be a work colleague (agenda item 12). The member brought this up in the Management Board Working Group on the Board of Appeal as well and did not participate in discussions or decision making on this specific matter in order to avoid a potential conflict of interest.

Furthermore, a person of trust representing a Management Board member informed the Board that he is among the persons nominated by Member States for a new mandate as a Committee member (agenda point 13). This participant did not take part in the debate on this topic. Persons of trust have no voting rights.

3. Minutes of the 31st Management Board meeting (*MB/M/03/2013*)

The Chair referred to the proposed amendments to the draft minutes of the previous meeting which were tabled as a room document. Subject to the modification (see corrigendum in Annex V), the draft minutes of the 31st Management Board meeting held from 26 to 27 September 2013 in Helsinki were approved.

4. Report from the Executive Director (*MB/51/2013*)

The Management Board heard the quarterly report of the Executive Director on the Agency's activities since the last Board meeting, including the latest status of the 5% end-of-year target of compliance checks concluded by the end of 2013. The latest results on dossier evaluations were given during the meeting announcing that the Agency reached the target of checking 5% of dossiers for the 2010 deadline. The Board greeted that news with warm applause.

The Board members also congratulated the Agency for the comprehensive report and achievements and requested further explanations on various topics related to translations, classification and labelling and in particular on the functioning of the C&L Inventory and Platform. On all these topics, the ECHA management gave further clarification.

Discussion continued on the C&L Inventory and Platform, the latest showing that the activity on the platform is low. Some Board members showed concern that the differing classifications and low platform activity might negatively affect the reputation of the Agency - even though ECHA has very limited scope for action in this field - and suggested a reflection on possible actions. The ECHA Secretariat informed the Board that on ECHA's request the CARACAL has set up a sub-group to try to find ways to improve the functioning of both the Inventory and the Platform. The Secretariat would also consider the suggestion to address the matter in the advisory group on dissemination.

Several interventions addressed SME-specific issues, following information provided by the

Executive Director in his report on a revised dedicated ECHA web section, a novel approach on SME status verification, a survey addressed to first-time successful SME registrants, a number of settlements of appeal cases affecting SMEs as well as a REACH workshop on Brussels, dedicated to SMEs' data sharing and SIEF management challenges from 10 to 11 December 2013. Many members drew attention to the need to support SMEs – through simplification of communication (e.g. guidance in a nutshell), increased predictability of ECHA's processes, translations provided (preferably simultaneously) in all 23 EU languages and support given by ECHA's SME Ambassador.

Overall, the Agency's activity regarding SMEs, the SME Ambassador role and the active participation of the ECHA Secretariat at the recent SME workshop were highly appreciated. The Commission representative invited the audience to reflect on extra needs that SMEs may have and which could be addressed in the future.

In relation to the request for simultaneous translations, the Director for Cooperation, who functions as SME Ambassador of ECHA, explained that ECHA is per legislation bound to use the European Union Translation Centre (CdT). CdT has defined timelines for delivering translations on the basis of the English original version. Since English is by far the most requested language for ECHA guidance and support tools, ECHA considers that the English original should be published as soon as possible in order to be available to companies during the translation time in the other languages. In order to increase the availability of support material in the EU languages, ECHA is also preparing short summaries of guidance documents (guidance in a nutshell) which can be translated faster than the often voluminous core guidance documents. Such SME-oriented publications have recently been published in all languages simultaneously.

Other discussion points included the sharing of information on chemicals with third countries and the impact of the free trade discussions with the USA. The ECHA Secretariat informed the Board that ECHA does not share confidential data with other countries, since this would - as provided by Art. 120, REACH - require an international agreement.

Referring to the first applications for authorisation under the REACH Regulation, a Board member – appointed by the Commission to represent interested parties – mentioned some concerns from NGOs with the working arrangements and the number of accepted confidentiality requests¹. The Secretariat explained that all applicants are urged to be as open as possible in the information that they provide when applying for authorisation, so as to make the public consultations meaningful. In terms of confidentiality requests, there is a balance to be struck and ECHA will carefully monitor the next applications.

On Biocides, Board members asked for more information on Helpdesk activities in future quarterly reports. Moreover, the importance of the MSCAs' commitment for achieving the target of 50 annual assessments for active substances in the Review Programme was highlighted by the Commission representatives, in particular for the funding of ECHA

5. Final amending and budget transfers 2013 (MB/52/2013)

The Management Board took note of the final amending budget for 2013 and the latest budget transfers carried out under the responsibility of the Executive Director.

The report, presented by the Acting Director of Resources, included an update on the developments regarding the resourcing of the Agency, temporary arrangements between REACH and Biocides funds and budget transfers that took place over the past months. Some technical

¹ A letter received by the Executive Director from some NGOs on 17 December on this matter was made available as a room document to which the Secretariat promised to respond in detail in January.

clarifications were made on two new budget lines introduced, the necessity of which derived from the regulatory obligations. Concerning REACH, the new budget line was required by the multi-annual nature of the authorisation process, whereas for Biocides the budget line was set for refunds of the paid fee amounts in case applications are rejected before or during validation or withdrawn during assessment.

The recent Court ruling on the salary adjustments of EU officials and other servants together with several smaller surpluses on different budget lines resulting in a total budget decrease of EUR 10.3 million for REACH and CLP that will be added to the REACH reserve to finance next year's budget needs, have impacted on the 2013 budget.

A Board member wished to know more about the amounts remaining unused, as for example the €1.1 million not used for translations. On this, the Secretariat explained that the amount would have covered around 500 pages of documents translated into 23 languages at a cost of approx. 92€/page by CdT. It mainly concerns guidance documents not finalised before year-end.

The Management Board adopted the final amending budget for 2013 and took note of the latest budget transfers. The Executive Director was instructed to notify this decision to the Budgetary Authority, the Court of Auditors and the European Commission and have the amended budget published on the Agency's web page and the Official Journal of the European Union.

6. Budget and Establishment Plan for 2014 (MB/53/2013)

The Executive Director introduced the final budget for 2014, including the establishment plan.

On 20 November 2013, the budgetary authority – the European Parliament and the Council – adopted the Union's budget for 2014, including the financial contributions foreseen for ECHA and the maximum available establishment plan posts.

The budgetary authority did not approve the additional funding for the REACH/CLP budget of €1.2 million to cover the cost of the European Schooling in Helsinki. Moreover, the 1% additional staff reduction proposed by the Commission to be applied to all agencies at "cruising speed" will be added to the general 1% staff reduction for ECHA in the area of REACH and CLP. Overall, a more than 2% cut was applied to the REACH/CLP posts, resulting in a reduction of 10 posts in 2014, instead of five posts as requested by ECHA in the preliminary draft budget in March 2013. This involves that ECHA's REACH and CLP establishment plan posts will reduce by over 2% in 2014 compared to 2013. By increasing the occupation rate by 1% and adding two extra CA posts the agency would still be possible to realise the full adopted 2014 Work Programme.

For Biocides and PIC activities, the foreseen increase by one post was approved for both areas but no reserve will be established to guarantee the high fee revenue assumed now in the BPR budget, requiring again a guarantee by other means from the Commission.

The Board acknowledged that despite the concerns expressed by the ECHA Secretariat in the previous meeting, the Agency now anticipates that it will be able to execute the work programme for 2014 with fewer personnel, trusting in measures taken to achieve a higher execution of the establishment plan and a slight increase of contract agent posts.

A Commission representative reassured the Board that DG Environment has reserved €1.5 million to conditionally cover shortfall in Biocides fees, reminding that these funds will have to be taken from the Life Plus programme, meaning that less projects will be funded at the European level. This calls for a regular monitoring of fee revenues and a judicious use of the funds by ECHA.

The Norwegian observer informed the Board that the BPR was formally incorporated into the EEA Agreement as of 13 December 2013, so it will be possible for Norway to provide a voluntary financial contribution to ECHA still this year. However, he called on the Commission to make sure that ECHA could make use of this money in 2014. He also noted that the subsidy of the EEA countries to the 2014 budget would be higher than assumed now in the 2014 budget.

A discussion took also place on need to better enabling the Management Board to set priorities in view of future resource constraints. The Board's Working Group on Planning and Reporting would look into this element.

The final budget and establishment plan of ECHA for 2014 were adopted by the Management Board. The Executive Director was instructed to notify this decision to the Budgetary Authority, the Court of Auditors and the European Commission and have the amended budget published on the Agency's website and the Official Journal of the European Union.

7. Update of the annexes of the Work Programme 2014 (MB/54/2013)

The Executive Director presented updated annexes for the Work Programme 2014 as adopted in September. These updates are done annually to reflect the final budget and establishment plan correctly in the work programme². A procurement plan is also added at the end of the year. As announced at the last meeting, the work programme annex containing the ECHA organisational chart was presented for update reflecting changes in the organisation from 16 January 2014.

During an exchange of views, a Board member appointed by the Council asked whether the position of an Deputy Executive Director can be included in the organisational chart without further formalities. In reply to this, the Executive Director explained that similar approaches have been taken by other agencies. The Board member expressed satisfaction with the explanations and noted that no objections were made by the Commission representatives in the Board.

In relation to the high expenditure on IT projects in the procurement plan, the Executive Director explained that the amount is reflecting the number of projects to be launched in 2014, covering the period 2015-2016 and preparing the Agency for the REACH registration deadline in 2018. More information will be provided to the Board in the March 2014 meeting when an update of the ECHA IT Strategy will be presented.

A room document was provided to the meeting with an updated resource annex (Annex 3). A Commission representative remarked on this that the indicated numbers for non-establishment plan posts for Biocides would exceed the Commission's internal figures. The Secretariat explained that the extra contract agent positions are strictly linked to the additional charges for chemical similarity services which the Board and the Commission has recently adopted and would only be filled if the services would be regularly called for. As this may lead to complications with horizontal Commission services, it requires monitoring and reporting during the year. Furthermore, it was clarified that this annex is not directly comparable with the corresponding annex of the 2013 work programme because of a change in conventions for allocating staff to the different activities. This change was intended to better reflect the factual situation. Specifically, for evaluation, the resources in terms of scientific staff will not be decreased.

The Management Board adopted the updated annexes of the Agency's work programme for

² The Board shall, in accordance with the REACH Regulation, adopt the Work Programme for the coming year by 31 October each year. However, the budget and the establishment plan, fixing the resources, can only be adopted by the Management Board in December each year, due to the timetable of the preparation of the general budget of the EU.

2014 as presented to the meeting. The amended work programme will be formally submitted to the EU institutions and Member States and will be published.

8. Key figures for the budget estimate 2015 and the multi-annual staff plan 2015-17 (MB/55/2013)

The Executive Director presented the preliminary key figures for the 2015 budget estimate and the multi-annual staff planning 2015-17. These key figures will be the basis for preparing the preliminary draft budget 2015 and the draft multi-annual staff policy plan 2015-17 that will need to be submitted to the Commission by 31 January 2014. The Management Board will adopt the final budget proposal for 2015, as well as the final multi-annual staff policy plan in its meeting of March 2014.

The staff figures indicated in the future resource planning assume an average decline of 1% per year until 2017 for REACH and CLP. An exchange of views took place on whether ECHA should, for risk mitigation purposes, foresee a 2% reduction or more per year taking into account that such higher reductions were proposed by the Commission. At the same time, it was noted that the budgetary authority had agreed to a 2% reduction for ECHA only for 2014, not for the subsequent years. Moreover, the institutions have decided to establish a new inter-institutional working group on agency resources which will look into each agency's needs and may conclude on different long-term planning targets than currently foreseen by the Commission.

The Executive Director confirmed that ECHA will be working with two scenarios and thus be prepared to handle higher staff reductions than outlined in the presented documents. However, ECHA should under no circumstances be treated differently than other agencies by applying a higher than 2% annual staff cut and intended to write to the Commission on this matter. If new tasks would be assigned to the Agency, additional new posts should also be considered. A special challenge constitutes the considerable enlargement of the legal scope of the BPR from 1 January 2017, which will involve a higher workload for ECHA and for which the Commission has no longer foreseen extra posts in the MFF planning. That is why the number of biocides posts in this document are significantly higher than put forward by the Commission, yet still lower than the financial statement accompanying the BPR adoption.

Some members asked for clarification regarding the uncertainties related to the building renovation. The Secretariat explained the need to reserve money which would complement the much larger costs incurred by the landlord due to the structural problems of the building and current air quality issues. Having a share in the renovation costs, could allow the Agency to invest in a more suitable office space layout.

The Management Board took note of the information provided and agreed with the Executive Director that ECHA should not be treated differently than other cruising speed agencies by applying a higher than 2% annual staff cut or not granting extra posts when new tasks are assigned.

9. Integrated Management Standards (MB/59/2013)

The Executive Director presented proposed Integrated Management Standards, replacing the previous ECHA "Quality and Internal Control Standards" adopted in 2008³.

The new standards aim in particular to remove overlaps between quality and internal control elements. The structure is also simplified to facilitate the annual assessment of the management

³ See MB/60/2008.

system. Modifications were also made so that all elements needed for ensuring compliance with the requirements of the revised Commission's Framework Financial Regulation are covered. In particular, the concepts of efficiency and cost-effectiveness were introduced.

The Management Board adopted the new ECHA Integrated Management Standards as proposed.

10. Financial Regulation

10.1 Revision of the Agency's Financial Regulation (MB/56/2013)

The Acting Director for Resources presented the agenda item which followed the information provided in the September Board meeting.

On the basis of a Commission Framework Financial Regulation for decentralised agencies, ECHA has to adopt its Financial Regulation and may not depart from the Commission text without prior consent of the Commission. After a revision of the General EU Financial Regulation in 2013, the Commission had adopted a new Framework Financial Regulation for decentralised agencies and asked the agencies to implement these rules from 1 January 2014.

In line with the discussion in the September Management Board meeting, the Secretariat had prepared a draft Financial Regulation based on the Commission's Framework Regulation and submitted it in mid-November to Commission with the request for an in time position for the Management Board meeting. Apart from some technical modifications, ECHA had requested two derogations concerning: a reserve fund for the Agency and changes to accommodate payment modalities related to the income fees and charges as a result of the SME verification process.

The Commission's formal reply to the requested derogations arrived, however, only on 18 December and a final text could only be prepared as a room document for adoption in the meeting. The Commission had rejected both derogations requested by ECHA and admitted only partly the foreseen technical adaptations. Since it was not feasible for the Board members to react to a high number of changes to a long technical document during the meeting, it was agreed that the new Financial Regulation should be adopted by written procedure foreseen to be launched by mid-January. Until the new Financial Regulation is adopted the existing ECHA Financial Regulation will continue to apply.

The Management Board decided to enter into a written procedure starting from mid-January 2014 on the adoption of a new Financial Regulation for the Agency.

10.2 Adaptation of the Charter of the Internal Audit Capability (MB/57/2013)

The Executive Director presented a revised Charter of ECHA's Internal Audit Capability (IAC). The Charter was changed to reflect that according to the future ECHA Financial Regulation, the IAC reports to both the Executive Director and the Management Board. Currently, the Charter foresees only a reporting duty towards the Executive Director, even though the IAC reports are always presented to and discussed by the Management Board and its working group on audit. The Management Board Working group on Audit had discussed the modifications to the IAC charter in its meeting of 16 December 2013. The Board was invited to approve the modifications to the Charter stemming from the upcoming new Financial Regulation, which were not affected by the Commission's opinion on the changes to the Framework Financial Regulation requested by the Secretariat.

The Management Board approved the revised Charter of its Internal Audit Capability (IAC). The final Charter will enter into application once the new ECHA Financial Regulation is in place and will be published.

11. Audit issues

11.1 Update of the IAS multi-annual strategic audit plan for ECHA (MB/58/2013)

The Executive Director presented the final strategic audit plan for 2014-16 prepared by the Commission's Internal Audit Service for ECHA.

A draft version had been sent to the Management Board on 5 December and the final version was submitted to the meeting as a room document. Shortly before the meeting, the IAS submitted the final version to ECHA and accepted all comments made by the Secretariat to the earlier draft. The Management Board Working Group on Audit had discussed the final draft in its meeting of 16 December 2013 and recommended it to the Board for endorsement.

The Management Board endorsed the audit strategy established by the Internal Audit Service for the period 2014-2016 with regard to ECHA.

11.2 Report from the WG audit

Karel BLAHA, the Chair of the Working Group on Audit reported from the last meeting of the working group, which took place on 16 December. The report included information on completed internal and external audits and the follow-up by the Secretariat.

The working group had discussed the following items:

- IAS Strategic Audit plan for 2014-2016;
- IAC audit plan 2014;
- Assessment of the status of the recommendations from the Court of Auditors special report on management of potential conflicts of interest;
- A report on follow-up of discharge recommendations from the previous year;
- Recently issued Commission guidance on anti-fraud strategies for EU decentralised agencies;
- Two audit reports from IAS (Committees management) and IAC (Forum secretariat).

The Board took note of the information provided and welcomed, in particular, that the external contractor – who assessed the implementation status of the recommendations of the Court of Auditors special report on conflicts of interest of 2011 – identified no critical findings. More, the contractor acknowledged that ECHA “has been proactive and positive in ensuring that their policies and procedures address both the issues raised in the ECA report and other potential risks that ECHA have foreseen themselves”. The Chair thanked the working group for its thorough work.

12. Prolongation of the mandates of some alternate and additional members of the Board of Appeal (MB/60/2013)

The meeting deliberated on this point in camera.

The Board heard its working group on the Board of Appeal. On the basis of the recommendations of the working group, which had duly reviewed the individual cases, the Board then took decisions on the prolongation of the mandates of two alternate members which come to an end in May and October 2014. The working group proposed that the renewal of one alternate chair would be concluded at a future meeting. The prolongation decisions were taken subject to the acceptance by the persons concerned and their compliance with the eligibility

criteria for Board of Appeal members⁴.

The Agency will approach the respective members of the Board of Appeal, via its Chair, to enquire whether they are willing to serve the Agency for another five-year term and to request an updated declaration of interest and a confirmation as regards their compliance with the eligibility criteria. The compliance with the criteria will be scrutinised by the working group of the Board of Appeal and the Chair with the support of the Secretariat. If the requirements are met, the Chair will effectuate the prolongation decisions.

The Board also heard a report from its working group on the Board of Appeal on ongoing activities. The working group is, for example, looking into the composition of the pool of alternate and additional members (AAMs) which needs to be checked against the existing and expected workload and other requirements. Other issues under consideration are the status of the registry vis-à-vis the Board of Appeal and in general improvement possibilities for the Rules of Procedures of the Board of Appeal, which are established by means of a Commission regulation. Finally, the Board was informed that the working group had been consulted by the registry on revised rules for the remuneration of AAMs and that a proposal from the working group will be submitted to the next Board meeting in this regard.

This was followed by an exchange of views. Some members asked questions about the need to reflect about the structures of the Board of Appeal since the system seems to be working smoothly. The working group clarified that the deliberations are at an initial stage and are stimulated mainly by experience from the role of the working group as reporting officers under the EU Staff Regulations. This duty is complex and work intensive due to the special status of the Board of Appeal and the role of the Management Board as appointing authority. It was also clarified that the Executive Director will be duly involved in consultations related to the status of the registry.

A Board member representing interested parties emphasised that an increased use of AAMs can involve higher possibility for potential conflicts of interests for ECHA.

The Chair thanked the working group for its work and suggested that it should in future regularly report to the plenary, ideally in connection with the regular annual report of the Chairperson of the Board of Appeal.

13. Appointment of Committee members (MB/61/2013)

The Director of Regulatory Affairs recommended that 4 new members for RAC and 6 new members for SEAC should be appointed and 7 members of RAC and 11 members of SEAC renewed as all but one (re)nominating Member State had declared commitment of time availability of the nominees and of the support to the members by the MSCA in line with the conclusion of the last Board meeting on the matter.

The Board also received a report from the meeting with MSCA Directors in ECHA on 20 November where the functioning of the Committees and the resources in Member States were discussed. During the meeting, several Member States had expressed severe resource constraints and called for efforts to seek efficiencies in the processes.

On request of one Board member, it was explained of the relevant Member State Board member that the member nominated for renewal was able to participate effectively to the committee with a lower use of time because of higher efficiency. Several members intervened to stress the often lacking expertise in the committees, the need to improve efficiency, the burden raised by

⁴ MB/45/2013 final

the Conflict of Interest policy and procedures, the benefits to smaller Member States to consider nominating experts from larger Member States, the need for a wider use of web conferencing tools and the usefulness of feedback which the chairs could provide to Board members from Member States.

The Board members appointed the new nominees for RAC and SEAC and renewed the three-year term of a number of RAC and SEAC members (see Annex III).

14. Implementing rules for the EU Staff Regulation (MB/62/2013)

The Acting Director of Resources presented the first cluster of seven draft Implementing Rules (IRs) as previously adopted by the Commission. They have to be in place by January 2014 as they contain important changes and clarifications relating to processes in the field of individual rights and obligations. ECHA's Staff Committee had been consulted on these IRs.

The Management Board adopted by analogy a first cluster of new Commission Staff Regulation Implementing Rules, with application as of 1 January 2014, as indicated in the meeting documentation and instructed the Executive Director to inform the European Commission about the immediate application of the new Implementing Rules.

15. Revision to the Consultation procedure for Guidance (MB/63/2013)

The Director of Cooperation present the reasons for the update to the current consultation procedure on Guidance as already outlined in a paper presented to the 31st meeting of the Management Board. The revised proposal for the procedure would i) accommodate the need to issue guidance to support implementation of BPR and PIC, ii) distinguish between consultation procedures to update or provide new guidance aimed at MSCAs or ECHA itself from guidance aimed at industry and iii) provide flexibility for replacing guidance documents with web-based information (not least for the benefit of SMEs).

A short exchange of views took place, focusing on the Partner Expert Group consultation, equal treatment regarding translations of guidance documents and modalities for legal issues to be consulted with the Commission. A Commission representative highlighted the importance of translations for DUs and SMEs as a legal requirement and in line with EU policies.

With one modification⁵ concerning operation of Partner Expert Groups for Guidance Development, the Management Board members endorsed the revised Guidance consultation procedure. The document will be published.

16. Composition of the MB Working Groups (MB/64/2013)

The Management Board received an overview of the composition of its working groups from the last changes to the composition agreed by the Board members in June 2013.

In addition, the Board was invited to nominate one of its members to participate in the Quality Steering Committee.

For the first time, the list also contained the members participating in other ECHA bodies, i.e. the Advisory Committee for conflicts of interests and the Quality Steering Committee. These are not subgroups of the Management Board even though their composition includes a member of the Board.

⁵ The indicative period for confirming the outcome of PEG consultations should be 10 instead of five days.

The Board members took note of the composition of its working groups and designated Ms Catherine MIR (FR) as a future member of the Quality Steering Committee.

17. Readiness for the operation of the PIC regulation (MB/65/2013)

The Executive Director presented the state of play of ECHA's preparations for new tasks under the EU Prior Informed Consent Regulation (PIC) starting from March 2014.

The efficient and smooth preparatory work to date was welcomed by the Board, in particular by a Commission representative who also highlighted the role of the Commission's Joint Research Centre.

Board members expressed their full confidence in ECHA for the entry into operation of PIC and the development of the new software for the management of these processes in the EU ('ePIC') considered to be a key-issue for all partners involved: designated national authorities (DNAs), industry, non-EU actors, and other stakeholders and scheduled to go live in September 2014.

The Secretariat confirmed the timing for providing a new IT system for import and export notification of hazardous chemicals and the manuals and guidance documents related to this. It was also clarified that ECHA will not take over the international negotiations under the Rotterdam Convention but may assist the Commission in this field.

A briefing session on ECHA's tasks under the PIC Regulation will be arranged by the ECHA Secretariat during one of the upcoming Management Board meetings.

The Management Board took note of the information provided.

18. Update of the work plan on nano-materials (MB/66/2013)

The Director of Regulatory Affairs presented the updated work plan on nanomaterials describing the nano-related activities ECHA aims to undertake for the period 2014-2015 as well as a summary of the past activities over 2012-2013, including the resources deployed which were partly dependent on the Commission's decision on the possible amendment of the REACH annexes.

The ECHA Secretariat and some Board members drew attention to the Commission's on-going impact assessment in relation to the potential adaptation of REACH annexes for nanomaterials and the missing extra resources for ECHA, foreseen to address the potential consequences of such changes in the annexes. The Commission representative informed that clear progress is being made towards the nanomaterials review and the ultimate decision on whether an amendment of the annexes will take place is close.

One member provided information on the mandatory reporting of nanomaterials undertaken by her country – the first of its kind to be introduced in Europe – aiming to gather available information on nanomaterials (properties, applications, toxicological and eco-toxicological data, unintended effects, etc.) and gain an insight on their level of production, import and distribution on the market.

Management Board members highlighted that ECHA gained an excellent reputation in the field of nanomaterials in the past years through its proactive engagement in this important field. The Board and the Executive Director were of the opinion that the presently available information on nanomaterials is insufficient to adequately judge their potential impact; an improvement of this situation is needed with respect to the aim to protect human health and environment.

The Management Board took note of the information provided.

19. Outcome of the written procedure (MB/WP/06/2013)

The Board took note of the outcome report of its last written procedure on budget transfers, concluded in November.

20. Any other business

Update on the revision of the Biocidal Products Regulation

The Executive Director reported on the outcome of the revision of the BPR Regulation thanking in particular the European Parliament for the support for issues highlighted by ECHA in the course of the regular dialogue with the ENVI committee of the European Parliament.

In particular the rapporteur and Chairman of the Committee, Mr Groote, has again confirmed that the Parliament is conscious of the need of providing an operating framework for agencies which allows them to focus on delivering their mandates.

Report from the MSCA Directors' planning meeting 2013

The Chair informed that the annual meeting with MSCA Directors was organised on 20 November 2013. It was announced that a summary report would be made available to members before year-end.

Future work of the Directors Contact Group

The Director for Cooperation informed the Board on the draft outline for continuing the work of the Directors Contact Group which was agreed on a technical level on 12 December and will be confirmed in January by the DCG. ECHA will take over the secretariat of the DCG from DG Environment and its main focus will be on support to SMEs. Some Board members asked the Secretariat to report any relevant conclusions to Caracal to which the Secretariat agreed.

Derogation for French BPR MSCA from IT Declaration

The Executive Director informed the Board of a specific situation related to the ECHA Unified IT security declaration for the French BPR MSCA. France has requested a temporary derogation until the end of February 2014 – which is the maximum derogation foreseen. However, the MSCA will soon move to another building. An investment in the security of the old building appears inappropriate. The Secretariat will analyse the situation and determine the appropriate action to be taken. Possibly, the Board will have to be concerned with the issue by written procedure.

Possible resource implications resulting from the implementation of the RoHS II Directive

A Member State representative informed the Board of ongoing discussions related to the implementation of the RoHS II Directive and questioned the link between the REACH Regulation and the RoHS II Directive and a possible resource implication for the Agency. However, it was noted that ECHA does not have a particular role in this area.

Outcome of the survey on a new online cooperation tool

The Secretariat referred to the outcome of the survey on an alternative online collaboration tool, replacing the Commission's CIRCA system for sharing information for the Management Board and other ECHA meetings. The Secretariat highlighted the reliable confidentiality aspects of the new tool. It was confirmed that a decision will be taken in January whether or not the Agency will continue to use the tool after the current pilot project.

Management Board members expressed different opinions on the new online tool, some finding

the tool friendlier, some unwelcoming the advertising messages and some others finding the tool equally fine with CIRCABC with the only one difference that the latter is cost free for the agency.

Next external meeting of the Management Board

The Chair informed that an external meeting of the Board is scheduled to take place on 16/17 December 2014 in Rome under the Italian EU Presidency in the second half of 2014. The relevant Board member promised to provide more info at one of the next Board meetings.

Next meeting and closure

The Chair reminded members that the next meeting of the Management Board will take place from 19 to 20 March 2014 in Helsinki, at the Agency's Conference Centre.

II. Documents submitted to the Management Board

Draft agenda	MB/A/04/2013
Draft minutes of the 31 st Management Board meeting	MB/M/03/2013
Report from the Executive Director	MB/51/2013
Final amending budget and budget transfers 2013	MB/52/2013
(Final) Budget and Establishment Plan for 2014	MB/53/2013
Update of the Work Programme 2014 annexes	MB/54/2013
Key figures for the budget estimate 2015 and the multi-annual staff plan 2015-17	MB/55/2013
Revision of the Agency's Financial Regulation (MB/53/2008)	MB/56/2013
Adaptation of the Charter of the Internal Audit Capability	MB/57/2013
Update of the IAS multi-annual strategic audit plan for ECHA	MB/58/2013
Report from the WG audit	
Integrated Management standards	MB/59/2013
Prolongation of the mandates of some alternate and additional members of the Board of Appeal	MB/60/2013
Appointment of Committee members	MB/61/2013
Implementing Rules for the EU Staff Regulations	MB/62/2013
Revision to the Consultation Procedure for Guidance	MB/63/2013
Composition of MB Working Groups	MB/64/2013
Readiness for the operation of the PIC Regulation	MB/65/2013
Update of the work plan on nanomaterials	MB/66/2013

III. Decision taken/Conclusions reached by Management Board

The Management Board:

- Adopted the agenda for its 32nd meeting (MB/A/04/2013).
- Approved the minutes of its 31st meeting (MB/M/03/2013).
- Adopted a final amending budget for 2013 (MB/52/2012) and, instructed the Executive Director to notify the decision to the Budgetary Authority, the Court of Auditors and the Commission and to have it published.
- Took note of the latest budgetary transfers (MB/52/2012) carried out under the responsibility of the Executive Director and in line with the outcome of the written procedure MB/WP/06/2012.
- Adopted the Agency's budget for 2014 including the establishment plan (MB/53/2013) and instructed the Executive Director to notify the decision to the Budgetary Authority, the Court of Auditors and the Commission and to have it published. The budget would become final following the final adoption of the general budget of the European Union.
- Adopted three updated annexes of the Work Programme 2014 (MB/54/2013) and instructed the Executive Director to forward the work programme, as amended, to the Member States, the European Parliament, the Council and the Commission and to have it published.
- Approved a revised Charter for the Agency's Internal Audit Capability (MB/57/2013) which shall enter into application after the adoption of a revised Financial Regulation of the Agency on the basis of Commission delegated Regulation (EU) No 1271/2013 of 30 September 2013.
- Adopted Integrated Management Standards for the Agency (MB/59/2013) which replace the Internal Control and Quality Standards (MB/60/2008/ of 24 September 2008).
- Decided on the prolongation of mandates of two alternate and additional Board of Appeal members. The prolongation decisions were taken subject to the acceptance by the persons concerned and their compliance with the ECHA eligibility criteria for Board of Appeal members (MB/45/2013). The compliance with the criteria will be scrutinised by the working group of the Board of Appeal and the Chair with the support of the Secretariat.
- Appointed Žilyvinas UŽOMECKAS, Slawomir CZERCZAK, Anne-Lee GUSTAFSON and Anja MENARD SRPČIČ as new members of the Committee for Risk Assessment.
- Renewed the membership in the Committee for Risk Assessment for:

MS	RAC member	Expiry date of the current three-year term
Estonia	Urs SCHLÜTER	23 March 2014
Greece	Christina TSITSIMPIKOU	23 March 2014
Greece	Nikolaos SPETSERIS	23 March 2014
Italy	Paola DI PROSPERO FANGHELLA	22 April 2014
Netherlands	Betty HAKKERT	21 June 2014
Poland	Bogusław BARANSKI	19 June 2014
Romania	Radu BRĂNIȘTEANU	23 March 2014

- Appointed Simon COGEN, Ionna ALEXANDROPOULOU, Alexandra MEXA, Iiona GOLOVAČIOVA, Tomas SMILGIUS and Karmen KRAJNC as new members of the Committee for Socio-economic Analysis.
- Renewed the membership in the Committee for Socio-economic Analysis for:

MS	SEAC member	Expiry date of the current three-year term
Austria	Simone FANKHAUSER	14 February 2014
Austria	Georg KNOFLACH	20 June 2014
Belgium	Catheline DANTINNE	14 February 2014
Bulgaria	Elina Velinova STOYONOVA-LAZAROVA	25 March 2014
Cyprus	Georgios BOUSTRAS	20 June 2014
Denmark	Lars FOCK	14 February 2014
France	Jean-Marc BRIGNON	14 February 2014
Germany	Franz-Georg SIMON	14 February 2014
Hungary	Endre SCHUCHTAR	14 February 2014
Netherlands	Cees LUTTIKHUIZEN	14 February 2014
United Kingdom	Stavros GEORGIU	14 February 2014

- Decided that the following Commission Implementing Rules to give effect to the Staff Regulations as amended in 2013 shall enter into force at ECHA on 1 January 2014 and instructed the Executive Director to inform the Commission accordingly:
 1. Commission Decision on implementing provisions on leave.
 2. General implementing provisions for giving effect to Article 7(3) of Annex VII to the Staff Regulations on determining the place of origin.
 3. General provisions giving effect to Article 8 of Annex VII to the Staff Regulations – travel expenses.
 4. Commission Decision on general implementing provisions for the grant of the education allowance (Article 3 of Annex VII to the Staff Regulations).
 5. Commission Decision on maternity leave and maternity pay for women whose maternity leave begins before the end of their contract (Articles 17 and 91 of CEOS).
 6. General Implementing Provisions on removal expenses (Article 9 of Annex VII to the Staff Regulations).
 7. Commission Decision on outside activities and assignments.
- Endorsed a revised consultation procedure for Guidance, subject to modifications as outlined in these minutes (MB/63/2013).
- Designated Ms Catherine MIR (FR) as a Management Board member participating in the Agency's Quality Steering Committee.

IV. List of Attendees

Representatives of the Member States

Thomas JAKL	(AT)	
Jean-Roger DREZE	(BE)	
Boyko MALINOV	(BG)	
Karel BLÁHA	(CZ)	
Alexander NIES	(DE)	
Aive TELLING	(EE)	
Kassandra DIMITRIOU	(EL)	also acting as proxy of Leandros NICOLAIDES
Ana FRESNO RUIZ	(ES)	
Catherine MIR	(FR)	
Krisztina Klára BIRÓ	(HU)	
Martin LYNCH	(IE)	
Antonello LAPALORCIA	(IT)	
Marija TERIOSINA	(LT)	
Paul RASQUE	(LU)	
Jan Karel KWISTHOUT	(NL)	also acting as proxy of Peter ØSTERGÅRD-HAVE
Edyta MIĘGOĆ	(PL)	
Nina CROMNIER	(SE)	also acting as proxy of Christina RUDÉN
Simona FAJFAR	(SI)	
Edita NOVÁKOVÁ	(SK)	
David John Arwyn DAVIES	(UK)	

Representatives of the European Commission

Antti PELTOMÄKI	
Björn HANSEN	also acting as proxy of Krzysztof MARUSZEWSKI

Independent persons appointed by the European Parliament

Anne LAPERROUZE

Representatives from interested parties appointed by the European Commission

Hubert MANDERY	(CEFIC)
Gertraud LAUBER	(EMCEF)
Martin FÜHR	(Environment and Health NGOs)

Observers from EEA/EFTA countries and accession countries

Sigurbjorg SAEMUNSDOTTIR	(IS)
Henrik Hallgrim ERIKSEN	(NO)

Other Observers

Anastassios YIANNAKI	on behalf Leandros NICOLAIDES (CY)
Bojan VIDOVIC	(HR)
Lars FOCK	on behalf of Peter ØSTERGÅRD-HAVE
Madelene SANDGREN	accompanying Nina CROMNIER

ECHA staff

Geert DANCET	(Executive Director)
Jukka MALM	(Director of Regulatory Affairs)
Andreas HERDINA	(Director of Cooperation)
Jack DE BRUIJN	(Director of Risk Management)
Leena YLÄ-MONONEN	(Director of Evaluation)
Luisa CONSOLINI	(Director of Information Systems)
Tuula HAKALA	(Acting Director of Resources)
Lindsay JACKSON	(Head of Unit Communication)
Minna HEIKKILA	(Head of Unit, Legal Affairs)

Frank BÜCHLER	(Executive Office)
Mervi MUSTAKALLIO	(Executive Office)
Viorica NAGHY	(Executive Office)
Jenni HOLSTI	(Executive Office)
Alain LEFEBVRE	(Head of Unit, Executive Office)

(Staff attending specific agenda items)

Tomas OBERG	(Chair of SEAC)
Tim BOWMER	(Chair of RAC)
Steve BUCHANAN	(Chair of the ECHA Staff Committee)
Minna STRÖMBERG	(Internal Audit Capability (IAC))
Sari HAUKKA	(Registrar, Board of Appeal)
John WICKHAM	(Accounting Officer)
Wim de COEN	(Head of Unit, Evaluation Unit)
Dimitrios KARGIANIOTIS	(Budget Officer)
Peter MEGAW	(Senior Scientific Officer)
Eric RIEGER	(HR Officer)
Derek KNIGHT	(Senior Scientific Advisor to the Executive Director)
Mike RASENBERG	(Head of Unit, Computational Methods)
Chiara MACCHI	(Registration Unit)
Evelina TODOROVA	(Executive Office)

V. Corrigendum to the minutes of the 31st Management Board

Agenda item 4, Report from the Executive Director, 6th paragraph:

"There was also a suggestion for the Commission and Member States to decide on the length of authorisation **transition review** periods, without recommendation from the ECHA Committees, and some questioning of standardising these **criteria for deciding/setting the review** periods. ~~The topic on authorisation deadlines will be brought up as part of the next CARACAL meeting agenda, and the division of responsibilities will be further discussed and clarified."~~

Justification: Correction of terminology and address the fact that the issue was not dealt with in the November CARACAL meeting

Annex II, Decisions taken and conclusions reachedPage 14, 1st bullet below the table:

Add: "[The Management Board] ... mandated the ED to further develop the data requirements of the RIPE tool (MB/49/2013) **and asked him to regularly report back to the Management Board.**"

Justification: The conclusion of the Management Board should reflect the wording of the corresponding decision as reported on page 10 (last paragraph of item 15) of the Minutes, i.e. it should include the obligation of the ED to report back to the Management Board on the further technical development of RIPE.

In agenda item 13.1, Functioning of the Committees, new 2nd last paragraph

Add: ***"Several Board members that expressed that there is a need for looking into streamlining and sharpening the expectations to the opinion forming process of the Committees, as the capacity problem is not the only problem to solve. Also the regulatory relevance of the opinion forming processes are important to look into in close cooperation between ECHA, the Commission and Member States".***

In the last 31st Management Board meeting under agenda item 3 the following amendment to agenda item 5 of MB 30 was agreed (based on a wording proposed by the Secretariat):

"The Secretariat confirmed a positive attitude towards this suggestion and informed that it will be assessed whether this can be achieved by way of executive guidelines or if the General Guide for Reimbursement adopted by the Management Board requires a modification".

This amendment creates a "follow up action" and thus should be included in the respective section (page 14) as follows

List of agreed follow-up actions:

- The Secretariat confirmed a positive attitude towards the suggestion that for workshops, seminars etc. organized by ECHA all invited public interest NGO participants should have equal travel reimbursement entitlements (as for ECHA Committees) and will assess whether this can be achieved by way of executive guidelines or if the General Guide for Reimbursement adopted by the Management

Board requires a modification.

The list of participants contains the following entry (page 15):

Martin FÜHR (Environment and Health NGOs)

This should be altered to:

Martin FÜHR (Environment, Health and Consumer NGOs)

Reasoning: Following a request of the Commission services the Consumer NGO umbrella organisation BEUC supported my nomination as a stakeholder representative (letter to Mr. Falkenberg and Mr. Zourek, as of 15 September 2011, L2011_264/SMA/rs by Director General of BEUC).