

**MINUTES OF THE 22ND MEETING OF THE MANAGEMENT BOARD
21-22 June 2011**

I. Documents submitted to the Management Board

Draft agenda	(MB/A/02/2011)
Draft minutes of the 21st Management Board meeting	(MB/M/01/2011)
Election of a Deputy Chairman of the Management Board	(MB/20/2011)
Information on the budgetary procedure 2012	(MB/21/2011)
Amending budget 2011	(MB/22/2011)
Opinion of the Management Board on the Agency's accounts	(MB/23/2011)
Appointment interim Accounting Officer	(MB/24/2011)
Multi-annual Work Programme, incl. multi-annual staffing plan	(MB/25/2011 rev.01)
Draft report in accordance with Art. 117(2)	(MB/26/2011)
Annual reports from IAS and IAC	(MB/27/2011)
Appointment of Committee members	(MB/28/2011)
Handling conflicts of interest at ECHA	(MB/29/2011)
Information on the mandate of the ED	(MB/30/2011)
Report from the Executive Director	(MB/31/2011)
Report from the Chair of the Board of Appeal	(MB/32/2011)
Board of Appeal involvement in the work of ECHA Secretariat, Committees and Forum	(MB/33/2011)
Revised eligibility criteria for ECHA's Accredited Stakeholders	(MB/34/2011)
Revised Rules of Procedure Forum	(MB/35/2011)
Work Plan Forum	(MB/36/2011)
Multi-annual planning for ECHA's Information systems	(MB/37/2011)
Transfers within the budget 2011	(MB/38/2011)

II. Summary Record of the Proceedings

Introductory remarks

The Chair opened the meeting by welcoming the Vice President of the Commission, Mr TAJANI, and his delegation to the meeting. The Chair then welcomed all participants, in particular the five new members of the Board, who had been appointed by the Council on May 17:

- Aive TELLING (EE)
- Kassandra DIMITRIOU (EL)
- Marija TERIOSINA (LT)
- Edyta MIĘGOĆ (PL)
- Ionut GEORGESCU (RO)

Their terms will run from 1 June 2011 to 31 May 2015.

The following members have been appointed by the Council for a second term running from 1 June 2011 to 31 May 2015:

- Helmut DE VOS (BE)
- Boyko MALINOV (BG)
- Eskil THUESEN (DK)
- Alexander NIES (DE)
- Leandros NICOLAIDES (CY)
- Armands PLÄTE (LV)
- Francis E. FARRUGIA (MT)
- Mário GRÁCIO (PT)
- Edita NOVÁKOVÁ (SK)
- Arwyn DAVIES (UK)

The Chair introduced the observers attending the meeting and provided information on the proxy votes of which he had been notified (details are listed in section IV of these minutes).

1. Agenda *(MB/A/02/2011)*

The Chair announced that agenda item 9 - Appointment of an interim Accounting Officer – would be dealt with after the report from the Board of Appeal, on the second meeting day.

He indicated that the following additional items were foreseen under “Any Other Business”:

- Request from Croatia to participate in ECHA’s work
- Updated Management Board decision on transfer of fees
- 1st MSCA planning meeting on 14 December 2011
- Public version of the preliminary draft conclusions

The Chair also mentioned the room documents that had been made available for the meeting.

On this basis, the agenda was adopted.

2. Exchange of views with Commission Vice-President Antonio TAJANI

Vice-President Antonio TAJANI addressed the Management Board about the implementation of the REACH and CLP regulations and their importance for European citizens. He thanked the Executive Director and the Secretariat for the efficient manner in which the Agency was set up, the excellent management of the regulatory operations, and for providing translations in all EU languages – of particular importance for smaller and medium sized companies for which the REACH implementation would not always be easy. Furthermore, he emphasised the importance of good cooperation with the Member States and industry to improve chemical safety in the European Union, especially with regard to the upcoming registration deadline in 2013. The Vice-President underlined the importance of the 2013 deadline and announced in this context that he is in favour of a second mandate for the present Executive Director.

Furthermore, the Vice-President introduced a new joint ECHA and Commission Graduate Scheme for cooperation with European universities to make the regulatory handling of REACH and CLP better known to science students and researchers. Traineeships at the Agency would offer students a unique opportunity to work with REACH in practice before entering the job market. The scheme would also make ECHA better known among young talent and promote the Agency as a work place.

The Chairman thanked the Vice-President for his support and solidarity with the Agency and confirmed that the Management Board shared the Commissioner's assessment regarding the success of REACH and CLP implementation by ECHA. This would also reflect the feedback from other institutions, including on financial management by the Court of Auditors. The Chairman stressed that not only had REACH as legislation proven to work but that the ECHA Secretariat, led by the Executive Director, had also made the best out of it. In order to continue on this path with growing responsibilities and tasks, the Agency would, however, need adequate resources in the next multi-annual financial framework.

The university initiative by Mr TAJANI was warmly welcomed by the Board, and joint seminars with academia were proposed. The Chair encouraged Board members to establish contacts with universities in their countries.

A Member State representative was interested in details related to Commission and ECHA plans to reach the goal of 136 substances of very high concern (SVHC) on the candidate list by the end of 2012. He recommended consideration of how larger Member States could be encouraged to increase their share and how smaller countries could be supported in their tasks. ECHA's share of SVHC dossiers could also be increased. The Board member also asked for a rapid improvement of REACH-IT search functionalities in order to facilitate the work of Member States on SVHC identification. Another point of concern to the Member State representative was the definition and risk management of nanomaterials. The need for a regulatory definition and a framework for industry and authorities was stressed, in order to make full use of the potential of the technology. The Board member asserted that ECHA should make use of all REACH possibilities to address nano-specificities in registration dossiers.

The intervention was supported by a Board member appointed by the Commission to represent interested parties who also asked for more transparency and information on nanomaterials. The member referred to the ECHA dissemination website as a good example of REACH implementation, in order to demonstrate to the general public: "What are the results of REACH and what are the benefits for the European citizens?" in the light of the 5th anniversary of the REACH Regulation in December 2011. The properties of the chemicals placed on the market are

visible to every citizen. The problem of “toxic ignorance” is gradually overcome in the process of the implementation of REACH.

In response to this, Vice President TAJANI highlighted the importance of providing support for European excellence in the field of nano-technology and explained that several Directorates-General would be working on the issue. Two Commission communications on nanotechnology were still to be published in 2011. To reach the goal pertaining to the candidate list, the cooperation with Member States would be crucial. The next competitiveness Council would also be concerned with the matter. The Commissioner also explained that the Commission is currently working on the challenging financial plans for 2014-2020 when ECHA will again need EU subsidies. However for 2012, getting new resources would be difficult due to the economic situation in the European Union.

3. Declaration of specific interests

None of the Board members present declared a conflict of interest with regard to the agenda items.

4. Minutes (MB/M/01/2011)

The minutes of the meeting on 24-25 March 2011 were approved with some modifications (see corrigendum in the annex).

5. Election of a Deputy Chair of the Management Board (MB/20/2011)

The Chair explained the election procedure for the Deputy-Chair and recalled Mr LYNCH's (IE) candidature for the post.

Mr LYNCH presented his candidature.

The Board then proceeded with the election in accordance with its Rules of Procedure. Of the 32 voting members in the Management Board, 26 members were present at the time of the election and 5 proxies were received. Two non-voting members, Mr FUEHR and Mr MUSU, were designated as tellers. In total there 31 votes were cast. The vote took place by secret ballot.

All votes cast supported Mr LYNCH and he was, therefore, unanimously elected as Deputy-Chair for a two-year term, to run until the end of June 2013.

The Chair congratulated Mr LYNCH on his election and thanked him for his readiness to take over the function.

6. Information on the budgetary procedure 2012
(MB/21/2011)

The Executive Director presented the Board with an update on recent developments regarding the budgetary procedure for the financial year 2012.

He recalled that at its previous meeting, the Board had approved the budget proposal, requesting twenty additional TA posts for REACH and CLP tasks. On 20 April, the Commission adopted the draft budget, which did not foresee any of the requested twenty additional posts for ECHA. The Chair and the Executive Director sent a letter to Budgetary Authority on 20 May, stating that ECHA cannot perform its new tasks without additional resources. They proposed a compromise: ten additional posts for 2012 instead of twenty. The Executive Director encouraged the Board members to contact their governments and Members of the European Parliament. To illustrate the issue, he referred to a list of indicative activities of the Work Programme 2012 which could be affected if ECHA were not to receive the twenty posts. These “negative priorities” would further be elaborated by the working group on planning and reporting, which would meet in September to consolidate the ECHA draft work programme for 2012.

In the subsequent discussion, Board members thanked the Secretariat for the transparent handling of the process and confirmed the need to contact the appropriate bodies in Member States. A representative of the Commission asked for more specific information on the qualitative and quantitative impact of the activities which would be affected by the 2012 budget. The Executive Director responded to the comments made.

The Board granted a mandate to the Executive Director and the Chair to undertake all necessary steps towards the Budgetary Authority to ensure adequate resources for 2012.

7. Amending budget 2011
(MB/22/2011)

The Director of Resources introduced the first amendment to the 2011 budget. The amendment concerned the inclusion of the remaining surplus from fee income received in 2010 after the reimbursement of the 2010 temporary subsidy of €36million. It also included the incorporation of the Commission funding for preparatory activities for Biocides related tasks in 2011.

The Board adopted the first amendment to ECHA’s 2011 budget as proposed in the meeting document.

8. Opinion of the Management Board on the Agency’s accounts for 2010
(MB/23/2011)

The Chair announced that ECHA’s Accounting Officer, appointed by the Management Board, was participating in the meeting for this agenda item.

The floor was given to the Executive Director to present the final accounts and the preliminary observations of the Court of Auditors thereon. The Court of Auditors had only one observation concerning the mechanism for retaining surplus own revenue to finance the Agency’s future activities. The Executive Director recommended that this should be taken into account in the upcoming review of the Commission’s Framework Financial Regulation for Agencies and the

Agency's own Financial Regulation. Otherwise, the feedback from the Court of Auditors was positive and no reservations were made.

The Chair continued by presenting the recommendation of the working group on audit matters regarding the Board's opinion on the final accounts. He noted that the accounts properly reflected the implementation of the Agency's budget for 2010 and thanked the Executive Director and the Accounting Officer for their excellent work. He also announced that the Accounting Officer, Ms Helene LILLGALS, would be leaving ECHA in September. On behalf of the Board he warmly thanked her for her outstanding achievements since her appointment in 2008.

The Board welcomed the quality of the accounts and the very positive response from the Court of Auditors.

The Board took note of the Agency's final accounts and the preliminary observations of the Court of Auditors' thereon. Based on a recommendation of the working group on audit, the Board adopted its opinion on the accounts.

9. Multi-annual Work Programme 2012-2014, including a multi-annual Staffing Plan (MB/25/2011 rev.01)

The Board received an update from the Executive Director on the final draft of the multi-annual work programme, taking into account the comments from the public consultation. The draft programme was endorsed by the Board in March 2011 and then submitted for public consultation (March-May 2011). The final draft was presented for eventual adoption by the Board.

Comments received from the public mainly concerned nanomaterials, dissemination, confidentiality claims, as well as completeness and compliance checks. The Executive Director confirmed that ECHA will provide individual replies to all contributors.

Board members commented on ECHA's draft replies to the comments, proposing, in particular, a more ambitious approach to nanomaterials and evaluation issues as well as adding the mention of a workshop on the interface between REACH and occupational health and safety legislation. Other Board members commented on the aspects related to inquiries, safety data sheets and the Forum work programme.

After hearing the Executive Director's feedback, the Chair proposed one editorial modification. Subject to this change¹, the Management Board adopted the Agency's multi-annual work programme 2012-2014.

10. Draft report in accordance with Article 117(2) of the REACH Regulation (MB/26/2011)

The Director of Regulatory Affairs introduced to the Board the draft ECHA report in accordance with Article 117(2) of the REACH Regulation. He explained that the report will contribute to the Commission's 2012 general report on REACH, which would be published in June 2012. The

¹ P. 25, addition of a full stop between the sentences: The Commission, together with ECHA, has created an approach and platform to stimulate discussion and cooperation between Member States on the most appropriate risk management options. ECHA will continue providing support to the Commission and Member States, for instance through further improvement of formats and guidance and, if needed, training.

draft report followed the Agency's activity areas and aimed to give an account of the key issues arising from each area, covering the operation of REACH and CLP. The Agency had, in parallel, also prepared a report on the use of non animal testing methods, in line with Article 117(3) of REACH. He explained that both reports will be finalised and published by the end of June.

The Director continued by stating that the overall evaluation of the report was positive, as REACH and CLP had started to deliver. The success was attributed to the commitment of and cooperation between ECHA, MSCAs, the Commission and stakeholders. There was no need for changes in the REACH Regulation in the short term, but room for several improvements by other means. For the 2013 registration, lessons should be learned from 2010. Some deadlines could be reviewed to ensure that the Committees could manage their work load, and the Fee Regulation should be updated.

This was followed by an extensive exchange of views. Board members appreciated the clear and concise style of the draft report and thanked ECHA for the good work. The comprehensive report was seen as a good start of the REACH review process. It was, however, discussed whether there was a need to include proposals for amendments to REACH.

A Board member appointed by the Commission to represent interested parties welcomed the well written report and expressed his aspiration that stakeholders would be interested in commenting on the findings, in particular in relation to joint submission and guidance development. Another representative of interested parties wondered whether REACH was delivering its intended objectives and pointed out several issues that would need improvement, like the quality of registration dossiers; information on registered CMRs or SVHCs on the market; or mechanisms to withdraw substances from candidate list.

Several Member States representatives were interested in how MSCAs could give feedback on the report and highlighted the importance of cooperation with the Member States for ECHA's operation.

One Member State representative emphasised, however, that this was ECHA's report, not a joint report with the Member States. Therefore, Board members should act as Board members and not speak on behalf of their national authorities in this matter. Member States had already delivered their national reports under Article 117(1) of REACH in 2010.

A Commission Board representative stated that the report was not a comprehensive report of all stakeholders, it is a first report only, and it is to be reflected upon in the later institutional discussions. Requests for a change in legislation would be better addressed as suggestions at this point in time.

The Executive Director explained that the report only reflected issues where the Agency had already gained experience. Several areas, as nanomaterials, were therefore not covered in detail. ECHA concentrated on the legislation in its current format. At the next Competent Authorities meeting (CARACAL), the report would be presented to MSCAs.

The Chair thanked the Board members for their clarifications and concluded that the report reflected the Secretariat's assessment and was a contribution to the institutional discussion on operational aspects of REACH and CLP. The Board appreciated the style of the report and the findings were largely shared by Board members. It was agreed that members could provide further feedback to the Secretariat until 26 June in order to support the latter in the finalisation of the report by 30 June.

11. IAS / IAC reports: report WG audit and appointment of a member of the WG audit (MB/26/2011)

The Chair reported on the group's findings in relation to the annual reports of the Commission's Internal Audit Service (IAS) and the ECHA Internal Audit Capability (IAC).

The working group on audit matters met on 20 June in Helsinki to discuss the reports and other audit related matters. The Chair clarified that there were no outstanding critical or important recommendations from the audits. The IAC had not received information on any irregularities in the Agency's operations.

The Board took note of the annual audit reports. It was also informed of the findings of the working group and its appreciation of the audit work undertaken so far this year.

Ms Cassandra DIMITRIOU was designated as a new member to the working group on audit in place of Maria ALAJOE whose mandate as Board member had expired.

12. Appointment of Committee members (MB/26/2011)

The following new members were appointed for the Committee for Risk Assessment:

- Mr Peter Hammer SØRENSEN and
- Dr Betty HAKKERT.

The following persons were appointed as members of the Committee for Socio-Economic Analysis:

- Mr Georgios BOUSTRAS
- Mr Magnus Utne GULBRANDSEN and
- Mr Georg KNOFLACH.

The mandate of the following RAC members will be renewed after their current regular three-year terms expire, as indicated below:

- | | |
|-----------------------------|--------------|
| - Mr Frank JENSEN | 25 Sept 2011 |
| - Ms Thomasina BARRON | 18 Dec 2011 |
| - Ms Marianne VAN DER HAGEN | 25 Sept 2011 |

The mandate of the following SEAC members will be renewed after their current regular three-year terms expire, as indicated below:

- | | |
|-------------------|--------------|
| - Ms Karen THIELE | 26 Sept 2011 |
| - Mr Janez FURLAN | 16 Dec 2011 |

13. Handling conflicts of interests at ECHA *(MB/26/2011)*

The Executive Director informed the Board of ECHA's approach for identifying potential conflicts of interest. Since 2007, ECHA has had a system in place for identifying any interests that could potentially present a conflict for its staff, Management Board members, members of the Committees or the Forum as well as their advisers and invited experts. In view of recent developments and experiences among other agencies, and the importance of this matter for the European Council and the Parliament, the Secretariat would be giving higher visibility to these efforts and revise the existing practices as needed.

In order to stimulate the debate, one member appointed by the Commission to represent interested parties informed the Board of one specific case of a possible conflict of interest within one of ECHA's Committees. He pointed out that ECHA had rules in place but raised the question of whether the rules should be strengthened, referring to experiences in other, similar agencies.

In the following discussion, Board members highlighted the importance of the matter for the Agency, its credibility and its reputation, stating that a clear and solid framework is needed. Declaring all relevant interests in advance was seen as the most transparent and efficient way to ensure independency in decision-making. Experts participating in the work of the Agency would need to declare all their interests. This issue would also be of utmost importance to the Board of Appeal, especially for the alternate members. Besides prevention and early warning mechanisms, ECHA would need procedures to intervene in case of reported concerns.

One Board member representing interested parties recommended best practice from other international organisations, e.g. the WHO, that have in part very detailed documentation on declarations of interest. He pointed out that the fact that ECHA admits observers to Committee meetings provides for an additional layer of control.

One Commission representative stated that clear and applicable rules were needed, highlighting an extended disclosure of backgrounds in advance. He pointed out that experts with a potential conflict of interest could join a Committee as long as they did not influence the respective opinions on cases where the conflict becomes relevant and is checked. This could be controlled. In the chemicals sector, most experts would have connections to companies, and this could not be totally avoided. ECHA would need the best experts in the field. Concerning the Board of Appeal, he recalled that all members and alternate members were obliged to submit a declaration of interests.

The Executive Director thanked Board members for their valuable input in the further development of the ECHA policy on prevention and control of conflicts of interest. He explained that the Secretariat was carefully controlling the declarations of interest of Committee members. Concerning other European Agencies, in particular, EMA, EFSA and EASA², he explained that these were in a similar position, and all agencies were learning from each other and exchanging best practice. For ECHA, the majority of Committee, Forum and Management Board members and experts would come from public authorities, and Member States would have a role in controlling the suitability and professional backgrounds of those of their nominees who are not public officials. However, it was of the utmost importance to have clear rules in place and assess all candidates very carefully from the beginning.

² European Medicines Agency, European Food Safety Authority and European Aviation Safety Agency

The Chair concluded by thanking the Board for the valuable discussion. Generally, ECHA should not be guided by “general suspicion” in this matter but be as transparent as possible and prevent to the maximum extent possible the appearance or presence of a conflict of interest. The Agency should benchmark its practices against other agencies, the EU institutions and international organisations and provide for solid and transparent procedures and controls.

The Board took note of the information. As scheduled in the rolling plan of the Management Board, an overall policy on handling conflicts of interest will be presented to the Board for endorsement in September.

14. Information from the Commission to the Management Board on the mandate of the Executive Director

A Commission representative informed the Board of the practicalities related to the mandate of the Executive Director which expires on 1 January 2013. Procedural requirements would demand deliberations by the Management Board in September 2011 and a subsequent communication to the Commission on the outcome.

Generally, there would be two options available:

- 1) In the case where the Management Board wishes to prolong the mandate of the current Executive Director, an evaluation should be carried out comprising two parts: the first would be an evaluation of the initial mandate, with an appreciation of the results obtained by the Executive Director and the manner in which they were attained. The second part would be an appreciation of the future mission, tasks and needs of the Agency.
- 2) In case the Management Board would see it as necessary to launch new selection procedure, this procedure would follow the Commission rules for selection of Executive Directors of agencies. This procedure would take at least twelve months. If the Management Board wishes to pursue option 2, it should inform the Commission no later than the September 2011 Management Board meeting in order to be certain that all elements of the procedure would be completed on time, including any notice that a selected candidate would have to provide to their employers.

The Board took note of the information. With regard to the evaluation of the first part of the mandate of the current Executive Director, one of the Board members designated as a reporting officer for the Executive Director highlighted that the reporting officers are duly undertaking annual appraisal exercises which are not *pro forma* exercises, and assess in detail the achievement of the set objectives.

15. Report from the Executive Director (MB/31/2011)

The Chair invited Helmut DE VOS, Chair of the advisory group on dissemination, to take the floor before the Executive Director’s report in order to update the Board on the proceedings of the group. Mr DE VOS highlighted in particular that the issue of the publication of the registrants name had been resolved since the March Management Board meeting and thanked ECHA for the progress. The Board would receive more comprehensive information in September after the next meeting of the working group.

The Executive Director then informed the Board as usual about the Agency's activities since the last meeting. Board members thanked him for the detailed report and congratulated ECHA for the achievements. Various topics were raised in the following exchange of views.

Several members requested information on how ECHA could better support smaller Member States in particular, to identify SVHCs and to evaluate substances. Other Board members were concerned about REACH-IT search functionalities for Member States to be able to identify SVHC candidates. The needs of the Member States in ECHA's IT systems should generally be taken more comprehensively into account. Another topic was the use of REACH-IT data by external consultants.

Furthermore, it was stated that ECHA should be more proactive when addressing specific aspects of nanomaterials in registration dossiers, as several products containing nanomaterials were already now on the market. This should be a priority for the Agency. One Board member suggested that a seminar on nanomaterials be organised for board members to learn more about the topic.

The Secretariat was also asked to inform the Board in advance about the cooperation with third countries and international organisations, especially when signing new agreements. One Member State representative raised the issue of translating ECHA's individual decisions into national languages.

Other issues raised were ECHA's new logo, exposure scenarios, delays with inquiries and the timing for the launch of the public C&L inventory.

The Executive Director and ECHA Directors replied to the interventions.

On SVHCs, the ECHA management expressed concerns about the current plans of the Member States. ECHA was envisaging further training for Member States both on SVHC identification and evaluation to help capacity-building. This would also be discussed at the first MSCA planning meeting in December in Helsinki.

It was clarified that some of the problems with REACH-IT were due to the lack of full integration between the REACH-IT and IUCLID systems. A pilot to access scientific data from IUCLID had already been started. The discussion on the use of REACH-IT data would continue in the Security Officers' Network. The Executive Director reminded the Board that all Member States should soon have access to REACH-IT and encouraged the remaining Member States to establish a connection.

The Executive Director confirmed that in future the Board would be directly informed when ECHA was to sign new technical agreements on international activities. Regarding translation issues, it was clarified that so far all ECHA's decisions had been sent out in English, as this was the language of the applications. However, he acknowledged the concerns of the Member States representatives and Board members were asked to inform ECHA if national enforcement authorities required translation of decisions.

With regard to nanomaterials, it was stated that ECHA and the Joint Research Centre already worked together on the issue. ECHA assist the Commission also in preparing the REACH and CLP aspects mentioned in the 2nd Commission communication on the Regulatory aspects of nanomaterials. The aim is to compile information on nanomaterial types and uses, including

safety aspects, which has been reported by the chemical companies either in their registration dossiers or in notifications to the Classification and Labelling Inventory.

The Board took note of the information provided.

**16. Board of Appeal issues: Report from the Chair and background note
(MB/32/2011, MB/33/2011)**

The Chair of the Board of Appeal (BoA), Ms ORTUÑO, gave the Board members a much appreciated update on recent developments related to the Board of Appeal.

The new technically qualified member, Andrew FASEY, had joined the Board of Appeal, and four appeals had been filed in 2011. Ms ORTUÑO explained how the Board of Appeal developed its expertise and managed its processes. New guidelines had been developed on the relations between the Board of Appeal and the ECHA Secretariat and on the Board of Appeal's possible participation in Committee and Forum activities. She mentioned some challenges, such as the difficult prediction of future work load as well as the level of interaction with stakeholders.

The Board thanked Ms ORTUÑO for the informative presentation and the proactive way of working. Several members raised the question of the low number of appeals so far and asked for the reasons behind it. Clarification was also requested on some technical aspects of the appeal process.

A member representing interested parties appointed by the Commission explained that industry tried to comply with the existing legislation and was still learning. An awareness-raising campaign was going on within industry. In the future, the number of appeals might increase, in particular, concerning data sharing issues.

A Commission representative referred to the outlined framework for the involvement of the Board of Appeal members in the different ECHA groups. Whilst acknowledging that it is indeed important that the Board of Appeal knows what it is deciding about, he stated that there is an important borderline to respect, and that even if the Board of Appeal is a part of ECHA it should not be seen too much as "sitting" with the ECHA Secretariat. The involvement can therefore not go into policy questions and has to be considered very carefully, also with regard to the outward appearance and the necessary safeguarding of the Board of Appeal's impartiality and autonomy. He also asked about the Code of Conduct for BoA members: specifically, if this had been inspired by other agencies; and what the experience could be gained so far.

Ms ORTUÑO replied by explaining the appeal procedure to the Board members, e.g. that an appeal to the Board of Appeal was compulsory before appealing to the General Court. Regarding the number of appeals, she pointed out that several initiatives could have influenced the appeal rate, such as the establishment of the Directors' Contact Group and the use of webinars to provide advice to industry. National helpdesks had also played an important role. Furthermore, not all of ECHA's decisions could be appealed at the Board of Appeal. She mentioned that the BoA's Code of Conduct was inspired in the Code of Conduct of the European Patent Office which has the same system of alternate and alternative members and also focuses on activities with potential conflict: if you fall within those categories you have to declare or just avoid conflicts of interest all together.

On request of a Board member the Executive Director clarified that ECHA's decisions always mention the possibility of appeal before the Board of Appeal, if appropriate.

The Board took note of the information provided.

17. Appointment of an interim Accounting Officer
(MB/24/2011)

The Board appointed Ms Sonja SELENIUS as the interim Accounting Officer until it appoints a new Accounting Officer. The selection procedure was launched, with the aim to present a candidate to the Board for appointment at the September meeting.

The Deputy-Chair, Martin LYNCH, was designated to participate in the selection panel for the Agency's new Accounting Officer.

18. Revised eligibility criteria for ECHA's Accredited Stakeholders
(MB/34/2011)

The Director of Cooperation presented the revised eligibility criteria for stakeholder organisations to the Board; these revised criteria took into account the elements included in a decision of the European Commission³. In the future, all Accredited Stakeholders wishing to participate in ECHA's Committee or Forum meetings would need to sign up to the Register of Interest Representatives, maintained by the Commission. A further change was that organisations representing sectors and interest groups that did not have members in all, or the majority, of the EU Member States were now eligible under certain conditions. The revised criteria also stated that the Accredited Stakeholders were expected to be non-profit making and not representative of individual companies.

One member representing interested parties commented that the criteria of the Commission might have unintended consequences on scientific organisations that might not necessarily have an interest in registering in the Register of Interest Representatives.

The Board adopted the revised eligibility criteria as presented to the meeting.

19. Forum issues
(MB/35/2011, MB/36/2011)

Revised Rules of Procedure

The Director of Cooperation informed the Board on the Forum's revised Rules of Procedure which need to be adopted by the Management Board. The major amendments would include the possibility to have alternate members, the termination of terms of co-opted members and the declaration of conflicts of interest.

This was followed by an exchange of views. The representative of the Commission asked about the qualification of alternate members. Mr Eugen ANWANDER, Vice-Chair of the Forum, stated that the qualification for Forum members was already defined in the REACH Regulation. The same definition applied for alternate members.

³ See minutes of the meeting of the Management Board of March 2011 (MB/M/01/2011)

Some editorial remarks were received on the text and a question was raised regarding whether lawyers had checked the terminology of the ROPs. The Board members also enquired about reimbursement practices, the possibility for alternate members to vote, and the role of invited experts at the meetings.

The Executive Director replied that alternate Forum members were entitled to vote. They could also join the Forum meetings (accompanying members), but they would not be reimbursed by ECHA. He pointed out that the Agency's legal service unit always makes a prior legal check on all Rules of Procedure of ECHA's bodies.

The Chair concluded by stating that the understanding of the Board was that the same qualification requirements applicable to full Forum members also applied to alternates. They would in particular also be appointed by Member States. Subject to this understanding, the Management Board adopted the revised Rules of Procedure of the Forum as previously agreed upon by the Forum.

Forum Work Programme 2011-2013

The Director of Cooperation introduced the Forum Work Programme for 2011-2013, covering REACH and CLP related activities. The programme contained both new activities (e.g. guidance for enforcement, exchange of inspectors) and ongoing activities (e.g. RIPE; advice on restrictions; and the interlinks project between enforcement and competent authorities).

Board members highlighted the importance of communication between national enforcement authorities and competent authorities. The launch of the RIPE system was welcomed, but there were some questions on its security aspects. Concerning the exchange of inspectors it was requested if and how ECHA could contribute to the programme with training activities.

One Board member representing interested parties appointed by the Commission stated that the Forum should inform stakeholders more about capacity building. Enforcement should be uniform across Europe. Another member from interested parties also proposed that the Forum could communicate more about its work, e.g. on ECHA's website.

The Director of Cooperation pointed out that the interlinks project was a key project to enhance the cooperation between different national authorities in a Member State. The webpage on enforcement on the ECHA website had already been improved, and the new ECHA website would be launched by the end of this year. By way of contrast to the security requirements for REACH-IT, the requirements for RIPE are formulated as recommendations. This was due to the nature of information contained in RIPE.

The Forum's Vice Chair, Mr ANWANDER, continued by stating that ECHA's experts were already involved in different enforcement trainings. However, more training would be welcome.

The Board took note of the new multi-annual Forum work plan which will be published on the ECHA website.

20. Multi-annual planning for ECHA's Information Systems (MB/33/2011)

The Board received a report from the Director of Information Systems on the multi-annual planning for ECHA's information systems. She explained the IT structure of ECHA's scientific

and operational processes, and the IT implications of new planned tasks for ECHA under proposed legislation. A detailed multi-annual IT perspective will be submitted to the September meeting of the Board.

Board members thanked her for the clear presentation. Questions were raised on REACH-IT search functionalities and the outsourcing of the activities. The need of the Member States for data mining should be taken more into account in the planning. As ECHA's work would be largely dependent on functioning IT systems, the importance of adequate resources for 2012 was emphasised.

The Director of Information Systems replied that the Member States' needs, especially the search functionality in REACH-IT, were a priority for ECHA. Sharing data with the Member States would gain importance in the future. For IT, the Agency was now using both internal staff, consultants and contractors, and more outsourcing would be done in the future.

The Executive Director continued that a perfect REACH-IT tool covering all MSCA needs would take time. A pilot project with direct access to IUCLID would soon start with three Member States. He stated that outsourcing would save some resources, but that internal resources were still needed for planning and monitoring.

Given that more resources would be needed for IT in the forthcoming update of the Multi-annual Work Programme, the IT planning will be on the agenda of the September 2011 meeting.

The Board took note of the information provided.

21. Transfers within the budget 2011 *(MB/38/2011)*

The Board took note of one budget transfer related to the costs of audiovisual equipment, carried out under the responsibility of the Executive Director.

22. Any other business

- Update on biocides preparatory activities

The Board received an update on the state of play of preparatory activities regarding ECHA's possible future involvement in the operation of the legislation on biocides. The Biocides regulation was expected to be adopted in the first half of 2012, and ECHA should have 12 months to prepare before the entry in force in 2013.

- Request from Croatia to participate in the work of ECHA

Croatia had formally requested to participate in the work of ECHA. The Board will discuss the matter in its September meeting.

- Final Annual Appraisal reports for the Executive Director and the members of the Board of Appeal

The Chair mentioned that he had duly received three annual appraisal reports from the reporting officers

- *Evaluation of ECHA according to Art. 75(2) of the REACH Regulation*

A Commission representative informed the Board about the review of ECHA launched by the Commission and which was being executed with the help of an external contractor. He thanked the Executive Director and relevant staff for having actively contributed to interviews with ECHA managers in May and informed the Board members that they might be contacted for further interviews, provided they had agreed to the provision of their contacts to the contractor. The ECHA review would feed in to a package of Commission reports due by 1 June 2012.

- *First MSCA planning meeting on 14 December 2011*

The first MSCA Directors' planning meeting would take place at ECHA on 14 December to discuss the future work load of ECHA and the MSCAs. Before that meeting, ECHA would request that MSCAs inform the Agency of their updated 2012-2015 planning for the various REACH processes.

- *Updated Decision on the transfer of fees to Member States*

ECHA had received the Commission's agreement to the Management Board decision on the inclusion of the fee transfer in the context of the authorisation procedure in the existing decision on fee transfers.

- *Public version of Preliminary Conclusions*

In future, the Secretariat will prepare a public version of the "preliminary conclusions", which would be available on the ECHA website. The document will be subject to a quick review by the board before being released and would not prejudice the Board's decision making on its minutes.

23. Next meeting and closure

The Chair reminded members that the next meeting of the Management Board would be held in Malta on 29-30 September 2011.

III. Decisions taken / Conclusions reached by the Management Board

The Management Board

- adopted the agenda for its 22nd meeting as contained in MB/A/02/2011.
- approved the minutes of its 21st meeting, subject to the amendments indicated in the corrigendum attached to the present minutes (MB/M/01/2011).
- elected Mr Martin LYNCH as Deputy-Chair for a two-year term.
- adopted the first amendment to ECHA's 2011 budget, as contained in MB/22/2011
- adopted its opinion on the final accounts 2010, as contained in MB/23/2011 Annex rev.01. The Executive Director was instructed to forward the opinion and the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, by 1 July 2011 at the latest.
- adopted the Agency's Multi-annual Work Programme 2012-2014 (MB/25/2011 rev.01), subject to one editorial change indicated in these minutes. The Board instructed the Executive Director to forward the document to the Member States, the European Parliament, the Council and the Commission, and to have it published on the ECHA website.
- designated Ms Kassandra DIMITRIOU as a new member of the working group on audit.
- appointed
Mr Peter Hammer SØRENSEN and
Dr Betty HAKKERT
as members of the Committee for Risk Assessment.
- appointed
Mr Georgios BOUSTRAS,
Mr Magnus Utne GULBRANDSEN and
Mr Georg KNOFLACH
as members of the Committee for Socio-Economic Analysis.
- renewed the mandate of the following RAC members after their current regular three-year terms expire, as indicated:
 - Mr Frank JENSEN 25 Sept 2011
 - Ms Thomasina BARRON 18 Dec 2011
 - Ms Marianne VAN DER HAGEN 25 Sept 2011
- renewed the mandate of the following SEAC members after their current regular three-year terms expire, as indicated:
 - Ms Karen THIELE 26 Sept 2011
 - Mr Janez FURLAN 16 Dec 2011
- appointed Ms Sonja SELENIUS, temporary agency, as interim Accounting Officer until further notice.

- designated the Deputy-Chair, Martin LYNCH, to participate in the selection panel for the Agency's new Accounting Officer.
- adopted the revised eligibility criteria for accredited stakeholder organisations as contained in MB/34/2011.
- adopted the revised Rules of Procedure of the Forum as previously agreed upon by the Forum (MB/35/2011), subject to the understanding that the same qualification requirements for full Forum members also apply to alternate members.

List of agreed follow-up actions

- It was agreed that members could provide further feedback on the draft for the Art. 117(2) report to the Secretariat until 26 June in order to support the latter in the finalisation of the report by 30 June.

pending from the List of MB 21

- The Secretariat will assess different stakeholders' satisfaction separately in the future annual General Reports of the Agency
- The Secretariat will provide to the Board a short analysis on the number of phase-in and non phase-in self-classified CMR 1 & 2 registered by the first registration deadline.
- The Secretariat will ensure a structured follow-up of evaluation issues for a subsequent Board meeting, focusing also on sanction and enforcement issues.

IV. List of Attendees

Representatives of the Member States

Zoltan ADAMIS (HU)
Arwyn DAVIES (UK)
Helmut DE VOS (BE)
Kassandra DIMITRIOU (EL)
Simona FAJFAR (SL)
Francis FARRUGIA (MT)
Ana FRESNO (ES)
Claude GEIMER (LU)
Mario GRACIO (PT)
Thomas JAKL (AT) also acting as proxy of Mr THUESEN
Pirkko KIVELÄ (FI)
Jan Karel KWISTHOUT (NL) also acting as proxy of Mr BLAHA
Martin LYNCH (IE) also acting as proxy of Mr LAPALORCIA
Edyta MIEGOC (PL)
Catherine MIR (FR)
Leandros NICOLAIDES (CY)
Alexander NIES (DE) also acting as proxy of MS CROMNIER
Edita NOVÁKOVÁ (SK) also acting as proxy of Mr MALINOV
Armands PLATE (LV)
Aive TELLING (EE)
Marija TERIOSINA (LT)

Representatives of the European Commission

Gustaaf BORCHARDT
Elke ANKLAM
Heinz ZOUREK

Representatives of the European Parliament

Guido SACCONI
Hartmut NASSAUER

Individuals from interested parties (appointed by the European Commission)

Martin FUEHR
Hubert MANDERY
Tony MUSU

Other Observers

Sten-Åke SVENSSON on behalf of Ms CROMNIER
Francesca GIANNOTTI on behalf of Mr LAPALORCIA
Katja VOM HOFE expert accompanying Mr NIES
Sean McLAUGHLIN (European Commission)
Cristina DE AVILA (European Commission)

ECHA staff

Geert DANCET	(Executive Director)
Jef MAES	(Director of Resources)
Jukka MALM	(Director of Regulatory Affairs)
Christel MUSSET	(Director of Registration)
Luisa CONSOLINI	(Director of IT systems)
Leena YLÄ-MONONEN	(Director of Evaluation)
Jack DE BRUIJN	(Director of Risk management)
Andreas HERDINA	(Director of Cooperation)
Minna HEIKKILÄ	(Head of Unit, Legal Affairs Unit)
Alain LEFEBVRE	(Head of Unit, Executive Office)
Frank BÜCHLER	(Legal Officer, Executive Office)
Mervi MUSTAKALLIO	(Planning and Monitoring Officer, Executive Office)
Tiiu BRÄUTIGAM	(Member States Relations Officer, Executive Office)
Gabrielle PRIKLOPILOVA	(Chair of the ECHA Staff Committee) for agenda item 6
Bo BALDUYCK	(Junior Legal Officer) for agenda item 13
Dana DVORAKOVA	(Junior Scientific Officer) for agenda item 10
Tuula HAKALA	(Head of Unit, Finance) for agenda item 6-8
Sari HAUKKA	(Registrar of the Board of Appeal) for agenda items 2,6,10,11,14,16 and 17
Stephen HOLLINS	(Scientific Officer) for agenda item 10
Helene LILLGÄLS	(Accounting Officer) for agenda item 8
Johan NOUWEN	(Head of Unit, Guidance and Forum Secretariat) for agenda item 19
Mercedes ORTUÑO	(Chair of the Board of Appeal) for agenda item 16
Mia PAKARINEN	(Legally qualified member, BoA) for agenda item 16
Minna STRÖMBERG	(Internal Audit) for agenda item 11
Sonja SELENIUS	(Interim Accounting Officer) for agenda item 17

Annex

Corrigendum to Document: MB/M/01/2011

(Agreed at the Management Board meeting on 21 June 2011)

**Minutes of the Meeting of ECHA's Management Board
held on
24/25 March 2011**

**“7. Multi-annual dossier and substance evaluation planning
(MB/06/2011)**

[...]

Several members requested clarification about the consequences necessary if ECHA did not get enough information from a registrant and whether a withdrawal of the registration number could be possible in the case that the quality of a dossier was not satisfactory. They highlighted the roles of the national enforcement authorities. These issues should also be discussed in the Forum. *One member representing interested parties appointed by the Commission highlighted the role of ECHA in this situation: Taking into account the “respite finem” perspective, ECHA should consider legal consequences based on the general administrative procedure rule, which allows for revocation of decision of a public authority in cases where the conditions under which the decision has been taken were not met in the moment of the decision (“revocation of the administrative act”), thus allowing to withdraw a registration number.*

[...]

The Executive Director also emphasised that the quality observation letters were important, allowing companies to improve their dossiers. With the compliance checks, the Agency needs to maintain the possibility for random checks. Internal policy lines are currently being prepared for evaluation to ensure the effectiveness of the decision-making. *The Executive Director stated that the possibility to withdraw a registration based on general administrative procedure rules needs further reflections, in order to take a more ambitious approach.*

[...]

**8. Multi-annual Work Programme 2012-14
(MB/07/2011rev01)**

[...]

The Board welcomed the ambitious programme with its five key challenges and many other priorities and appreciated the work done by the working group in improving its quality. In a following exchange of views, Board members discussed the mission, vision and values and proposed slight changes to them. Some other minor changes were also suggested by different members.

The Commission representative stated that the Commission could endorse the document in principal but that it reserved the position on the Forum activities due to the Forum’s new forthcoming (multi-annual) work program expected to be adopted by June 2011.

[...]

[...]

The Executive Director thanked the Board members for the diverse modification proposals to the multi-annual work programme and the vision, mission and values. He stated that most SMEs were expected to register only for the 2018 REACH registration deadline. However, the Agency would already start to enhance its communication activities to smaller companies. He ~~took note of~~ *(will consider)* the idea of having a Chief Inclusive Governance Officer at the Agency although the specific concern could also be addressed by all directors.

[...]

**9. Multi-annual Staff Policy Plan ~~(MASSP)~~ (MASPP) 2012-2014
(MB/08/2011rev01)**

12. Appointment of Committees' members

[...]

After a Board member representing interested parties appointed by the Commission questioned the qualifications of one of the candidates for the Socio-Economic Analysis Committee, the Board held an exchange of views on its role in assessing the suitability of the Committees' members. It was stressed that a broad representation of different disciplines was important for the functioning of the Committees.

[...]

15. Report of the Executive Director (MB/13/2011)

[...]

The subsequent discussion focussed on Member States' access to REACH-IT and registration dossiers, information from the Director's Contact Group and its dissemination to the Member States, security issues, nanomaterials, and the issue of the translation of documents. One Board member was interested in seeing the preliminary results of the latest Eurobarometer study on CLP. *Another member was interested in knowing the number of self-classified CMR 1 & 2 registered by the first registration deadline.*

List of agreed follow-up actions

- *The Secretariat will assess different stakeholders' satisfaction separately in the future annual General Reports of the Agency*
- *The Secretariat will provide to the Board a short analysis on the number of phase-in and non phase-in self-classified CMR 1 & 2 registered by the first registration deadline.*
- *The Secretariat will ensure a structured follow-up of evaluation issues for a subsequent Board meeting, focusing also on sanction and enforcement issues."*