



MB/M/03/2011 final

**MINUTES OF THE 23RD MEETING OF THE MANAGEMENT BOARD
29-30 September 2011**

I. Documents submitted to the Management Board

Draft agenda	<i>(MB/A/03/2011)</i>
Draft minutes of the 22 nd Management Board meeting	<i>(MB/M/02/2011)</i>
Decision on the selection procedure for the Executive Director	<i>(MB/39/2011)</i>
Budget 2012 and Multi-annual financial framework	<i>(MB/40/2011)</i>
Transfers within the budget 2011	<i>(MB/41/2011)</i>
Appointment of the Accounting Officer	<i>(MB/42/2011)</i>
Work plan on international activities 2012	<i>(MB/43/2011)</i>
Work programme 2012	<i>(MB/44/2011)</i>
ECHA Policy on conflict of interests	<i>(MB/45/2011)</i>
Appointment of Committee members	<i>(MB/46/2011)</i>
Probationary report on technically qualified member of the Board of Appeal	<i>(MB/47/2011)</i>
Integrated quality management – progress report	<i>(MB/48/2011)</i>
Report from the Executive Director	<i>(MB/49/2011)</i>
Requests from third countries	<i>(MB/50/2011)</i>
Activities on downstream user obligations and substances in articles	<i>(MB/51/2011)</i>
Planning of substance evaluation	<i>(MB/52/2011)</i>

II. Summary Record of the Proceedings

Introductory remarks

The Chair opened the meeting by welcoming the participants and thanking the Maltese authorities for hosting the meeting.

He informed the Board that he and the Executive Director had invited Messrs MUSU, FUEHR and MANDERY (replaced for this meeting by Mr THIRAN) to attend the meeting in order to ensure that interested party representatives are duly involved in the Management Board proceedings. It was noted that the Commission was in the process of deciding upon the appointment of Management Board members representing interested parties in accordance with Article 79(1) of the REACH Regulation.

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

- ECHA review (Article 75 of the REACH Regulation)
- Graduate scheme in chemical policies – state of play

He also noted that several room documents had been made available and introduced these to the Board. The room documents included a revised version of document MB/46/2011 with an additional Committee nomination on behalf of the Republic of Cyprus. The document had been circulated electronically before the meeting.

On this basis, the agenda was adopted.

2. Address by Dr. Chris Said, Parliamentary Secretary for Consumers, Fair Competition and Public Dialogue

The Chair welcomed Dr. Chris SAID, the Parliamentary Secretary for Consumers, Fair Competition and Public Dialogue of the Republic of Malta and thanked him for hosting the meeting.

The Board members were then warmly welcomed by Dr. SAID. He highlighted the importance of REACH for human health and the environment, as well as for the competitiveness of European industry, serving, therefore, as a role model for other legislative areas. He referred to the active contributions of Malta during the legislative process leading to the adoption of the REACH Regulation and the specific characteristics of the Maltese chemicals industry which includes many downstream users of specialised

chemicals. The interest of Malta had been to achieve a workable legislation and to duly prepare on the national level for the entry into force of the REACH legislation on 1 June 2007. This had been successfully achieved. Certain experiences with the implementation of REACH were now also considered as best practice for the implementation of other EU legislation; for example the good experience with the national helpdesk.

Dr. SAID emphasised the active role of the new Malta Competition and Consumer Affairs Authority, which had absorbed the functions of the former Malta Standards Authority. He highlighted the support being provided to small and medium sized enterprises, micro-sized companies and downstream users in Malta, in particular, mentioning also diverse stakeholder activities and campaigns. He continued by stressing the important role small and medium sized enterprises and downstream users played for the chemicals industry, especially in the case of low volume substances.

The Chair and the Executive Director thanked Dr. SAID for the interesting speech and emphasised the role of Malta as an active partner in ECHA's bodies and networks. Maltese staff had been amongst the first ECHA employees in 2008 and the Maltese MSCA was seen as a strong partner by ECHA.

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/02/2011)

The minutes of the meeting on 21-22 June 2011 were approved with some modifications (see corrigendum in the annex).

5. Decision on the selection procedure for the Executive Director (MB/39/2011)

The agenda item took place in camera. It followed on from an agenda item at the Board meeting of June 2011. At this previous meeting, the Commission representatives had informed the other Board members that the Commission requires a decision in relation to the mandate of the Executive Director. The current mandate expires by the end of 2012. With respect to the implications on procedure and time schedule, it was requested that the Commission would be informed, by the end of September 2011 at the latest, whether the Board intended to prolong the mandate of the current Executive Director or if the launch of a new selection procedure for the position was required.

The Board duly examined the question by holding an intensive and comprehensive exchange of views. In response to the Chair's request, it was noted that the Executive Director had previously confirmed his availability for another term in office of five years. The Board also heard specifically from its members designated as reporting officers for the Executive Director, and considered the very satisfactory results obtained during the

initial mandate and the suitability of the present Executive Director for the future mission, tasks and needs of ECHA. The Management Board also included topical developments related to the good administrative practice of selection procedures in its considerations. Then Board also discussed a report of the European Ombudsman issued in summer 2011 and came to the conclusion that the critical remarks concerning shortcomings on documentation during the previous selection procedure did not cover the role of the Management Board. Therefore the current decision was not deemed to be affected or influenced.

On the basis of these deliberations, the Management Board decided by consensus that it was in the best interests of the Agency not to launch a new selection procedure and to initiate the prolongation of the contract of the current Executive Director. The Board will thus proceed with an evaluation of the Executive Director's current and new mandate. In preparation of this, the Board will consider the future challenges and tasks of ECHA at its next meeting.

The Board also mandated its Chair to inform the relevant Commission services of its decision.

6. Budget 2012 and multi-annual financial framework

(MB/40/2011)

The Executive Director reported to the Board on the development related to the budgetary procedure for 2012 and the establishment of the next multi-annual financial framework of the European Union for 2014-2020.

The European Parliamentary Committee for Environment, Food Safety and Public Health (ENVI), responsible for dealing with ECHA's activities, had proposed to grant an additional ten temporary agents to the Agency for 2012. If accepted by the Parliament and eventually by the Council, this would account for half of the new posts requested by the Management Board on behalf of ECHA in March 2011. The Executive Director confirmed that the remaining ten positions needed for implementing the foreseen work programme could be substituted by contract agents. Depending on the development of the budgetary process, the Board would be asked to authorise the funds for these contract agents in December 2011.

The next steps in the budgetary procedure include a vote in the plenary of Parliament on 26 October and a subsequent conciliation procedure between Parliament and Council between 1 and 21 November. The final budget could then be adopted on 1 December by the Budgetary Authority.

Regarding the multi-annual financial framework for 2014-2020, the Executive Director reminded the Board that ECHA would be dependent upon mixed funding, from EU subsidies and fee income, over this period. This had to be reflected in the Council regulation on the multi-annual financial framework for which the Commission had presented a proposal in June 2011.

Two Member State representatives asked for clarification on the functioning of the financial framework and its relation to ECHA's financing and staff planning for 2014-2020. Further questions concerned the amount of fee income foreseen for ECHA, and the Agency's alternative plans should no subsidy be received after 2013.

One participant representing interested parties pointed out that for the 2013 and 2018 registration deadlines, a large number of small companies were expected to submit their registration dossiers. These companies would need additional support from ECHA and national helpdesks.

A Commission representative stated that the annual budgets of the EU, including that of the agencies, had to stay within the ceilings of the eventually adopted multi-annual financial framework. As all EU institutions are expected to reduce costs by reducing their staffing by 5% over this period, it was recommended for ECHA to focus on its core business when planning future activities.

The Executive Director replied to the questions raised. He clarified that if ECHA did not receive adequate EU funding after 2013, it would be forced to use the natural mobility of staff and contract renewals to cater for the consequential personnel reductions. He stressed that the partly public funding for the post-2013 period would therefore be essential. The registration fee income from the 2013 and 2018 deadlines was expected to be much lower than that of 2010 due to the design of the REACH Fee Regulation and the business background of expected registrants. Also ECHA's costs, including the transfer of fees to the Member States on substance evaluation, would be growing. He explained that the ECHA Secretariat was working on a "staff and finance model", which provides justification for the resources needed for operating the REACH and CLP processes in a similar manner as the original Commission model of 2006. The Board would receive more information at upcoming meetings.

The Board took note of the information provided.

7. Transfers within the budget 2011 *(MB/41/2011)*

The Board took note of the latest budget transfers carried out under the responsibility of the Executive Director. These were related to increased costs from missions, insurance, recruitment and building maintenance.

8. Appointment of the Accounting Officer *(MB/42/2011)*

The Executive Director introduced the agenda item by referring to the appointment of an interim Accounting Officer at the previous Board meeting and outlining the recruitment procedure for the new Accounting Officer. The Board was asked to appoint the first person on the newly established reserve list for accounting officers, who would then duly take over the duties of Accounting Officer on the starting date of his/her contract, from the current interim Accounting Officer.

The floor was then given to the Deputy Chair, Mr LYNCH, who participated on behalf of the Management Board in the selection committee for the post. Mr LYNCH informed the other Board members that a high number of applications had been received for the vacancy, and six candidates were invited for an interview. After thorough evaluation, the selection committee considered Mr Carl Urban WESTERBERG the most suitable candidate for the post. He recommended the Board to follow the proposal of the selection committee and appoint Mr WESTERBERG as the Accounting Officer.

The Management Board appointed Carl Urban WESTERBERG as the new Accounting Officer of the Agency.

9. Work plan on international activities 2012

(MB/43/2011)

The Director of Cooperation introduced the draft work plan on international activities which, for example, included support for the Commission with multilateral organisations and conventions, OECD activities, support for candidate and potential candidate countries for accession to the European Union as well as disseminating information and attending events in third countries. Among the 2012 priorities are activities to develop international standards for assessing chemicals, support to candidate countries, OECD work and cooperation with third countries.

A Commission representative asked for a differentiation of the international tasks between specific, ongoing projects and regular work. He emphasised that the Commission supports international activities, which are beneficial for the whole Union. However, ECHA should concentrate on its core tasks and set clear priorities for its international activities.

A representative of interested parties stated that industry highly welcomes ECHA's international activities and would like to be involved closely in this area.

Several Member State representatives highlighted the need for prioritisation of international activities were the Agency not to receive additional posts for 2012. As this activity is supported by the Agency's current staffing rather than new posts, the current section of the 2012 Work programme referring to this activity did not contain any italicised text, and thus would not be altered in the case of the non-award of new posts. In their opinion, the plan on international activities could only be endorsed as presented if the budgetary authority did grant the requested new staff to ECHA. Were this not to be the case, the Agency should prioritise and concentrate on its core operational activities. However, the importance of ECHA's international activities for the whole EU was recognised, and the work accomplished was highly appreciated.

Other Member State representatives intervened in support of ECHA's international activities. One member pointed out that the Commission had requested many new tasks from ECHA, related to supporting the Commission in international activities, without reducing other tasks. To add clarity, these new tasks should be separately listed in an extra annex of the plan.

The Director of Cooperation responded by further elaborating on the current international tasks. The Executive Director continued by clarifying that the Board would have to consider the issue again at its next meeting, in case the posts available for 2012 were fewer than requested. In this case, the Board would be asked to re-prioritise the Agency's international activities. He clarified at the same time that certain costs related to international activities would be financed from the Instrument for Pre-accession Assistance (IPA).

The Board endorsed the work plan for international activities for 2012, with the understanding that the plan would potentially have to be revised in the light of the outcome of the budgetary procedure for 2012. The Board would then revisit this item accordingly in December.

10. Work programme 2012 *(MB/44/2011)*

The Executive Director presented the draft ECHA work programme for 2012. The draft had previously been subject to a written consultation by the Management Board and the comments received had been reviewed and consolidated by the working group on planning and reporting. He also referred to the room document that explained how their comments were taken into account by the Secretariat and the working group. The Executive Director emphasised that the current text contained a number of actions and outputs in italics, which indicated that these would have to be dropped in the December meeting should the Budgetary Authority not approve the ten new temporary agent posts requested, and the Management Board subsequently not approve the ten new contract agents posts. In addition, the annexes of the document would be updated in December 2011 once the outcome of the budgetary procedure for 2012 was known.

The Chair of the group, Mr LYNCH, explained the amendments made by Board members after a consultation on the initial draft. He stressed that the working group had asked to be re-consulted before the next Management Board meeting, should the Budgetary Authority not approve the new posts requested, so that the list of negative priorities to be submitted for the Board's approval could be reconsidered. On behalf of the working group, Mr LYNCH recommended the adoption of the document without further changes.

Board members thanked him for the good work done by the working group, and proposed nevertheless several textual amendments to the program, relating *inter alia* to dissemination issues, confidentiality claims, intermediates, the quality of registration dossiers, and the work program indicators. It was proposed that small and medium sized enterprises (SMEs) should be given more explicit focus in the program. Support to the Member States and the work of the HelpNet would be equally important.

A representative of the Commission stated that joint efforts from ECHA, the Commission and industry would be needed to improve the quality of registration dossiers.

One interested party representative questioned the minimum targets set for dissemination. The target for publishing non-confidential data could, in his view, be raised from 90% to

99%. He also suggested a monthly monitoring of ECHA's performance indicators, which should be published on the ECHA website for more transparency.

Another participant representing interested parties welcomed ECHA's responses to the comments, which were provided during the Management Board's internal consultation on the draft. Further requests related to nanomaterials, the functioning of the "No data – no market"-principle, and elements from the work programme 2011 which were not fully completed yet, such as a planned workshop on REACH and worker protection.

Another interested party representative mentioned that REACH had made much information on chemicals available that would not be fully used yet.

The Executive Director thanked the Board members for their comments and reminded them that these had been received at a very late stage and after a formal consultation period in July/August. Considering the imminent legal deadline in finalising the Work Programme, any changes would have to be agreed by the working group during the proceedings of the present Board meeting.

Concerning SMEs, he stated that most of them would only register in 2018, not 2013. To reach these small enterprises, ECHA's support to the Member States would be important. Regarding later priorities, nanomaterials could become an important task for the Agency, and for this a clear definition would be needed. Work on this was in progress on the Commission level in cooperation with the Joint Research Centre and with technical support from ECHA. He also clarified the division of resources between different work programme activities.

The Chair proposed that the working group would exceptionally work on a new draft to incorporate some of the comments made in the meeting, but called on all members to avoid such late requests for changes in future years.

Based on textual amendments proposed by the working group¹, the Management Board subsequently adopted the Agency's Work Programme 2012. The underlying assumption being that ECHA would receive twenty new posts for 2012, of which ten temporary agent posts would be approved by the Budgetary Authority and ten contract agent posts by the Management Board. Otherwise, the Management Board would consider at its December meeting which tasks could not be accomplished in 2012. The Annexes of the

¹ P. 8, second paragraph: reference to evaluation, quality of registration dossiers and industry's responsibility; p. 9, first bullet point, addition: dissemination should be *as soon as possible*; p. 9, last bullet point, addition: ECHA's support to SMEs; p. 11, second paragraph: *intensify* screening of intermediates; p.11, second paragraph, replacement: national authorities *asked to act on* cases concerning correspondence with registrants; p. 13, first paragraph, replacement: mention of dissemination of maximum information to the public; p. 13, deletion: indicator relating to number of appeals; p. 15, third paragraph, addition: text on compliance checks and reference to nanoform; p. 15, fourth paragraph, addition: text on quality of registration dossiers and reference to 2013 registration campaign; p. 16, fourth paragraph, addition: text on information from substance evaluation made available and meant to feed into actions; p. 18, deletion: indicator relating to appeals; p. 20, seventh paragraph, addition: of *Annex XIV*; p. 32, third paragraph, addition about nanoforms and dossier evaluation; p. 34, first paragraph, addition about Forum intensifying efforts in Member States in enforcement; p. 35, third paragraph, deletion: national *country* coordinators; p. 42, second paragraph, *build up and maintain* cooperation with third countries put in italics; p. 59, deletion: reference to ECHA convincing the Commission to propose the planned financial resources.

document will be completed in December, once the final income and the 2012 establishment plan for ECHA were known.

The Board instructed the Executive Director to forward the adopted document to the Member States, the European Parliament, the Council and the Commission and to have it published on the ECHA website.

11. ECHA Policy on conflict of interests

(MB/45/2011)

As announced at the previous Board meeting, the Executive Director presented a draft Policy on conflict of interests. It would be applicable to all ECHA bodies and networks, the ECHA Secretariat and Board of Appeal, as well as to other persons working for the Agency. The policy included a new, uniform declaration of interests - with guidance for completing the form - for staff members, members of the Management Board, as well as other Agency bodies. As a further step, implementing procedures and codes of conduct would be prepared or updated for ECHA's bodies. Another important feature of the new policy was an ethical committee which would be created. If needed, the committee would provide advice and facilitate consistent application of the policy within the Agency.

The Board members congratulated the Executive Director for the considerable improvements achieved with the new policy. Questions were raised concerning, for example, the publication of the declarations of interest on ECHA's website; the amended thresholds concerning financial investments; the responsibility of the Chairs of ECHA's bodies; the body deciding on future amendments to the declaration; and the future implementation of the policy, should changes be needed. Reference was also made to the OECD's definitions of conflicts of interest. Several Board members were interested in the mandate and composition of the ethical committee, pointing out that the committee should work in a transparent manner.

Generally, the Board members considered the policy as a very valuable improvement of the Agency's practice and an appropriate measure after the initial start-up phase of ECHA. Members expressed their interest in being regularly informed about the next implementation steps, such as the code of conduct and implementing rule.

The Executive Director clarified some terms of the policy as well as the resources needed for the ethical committee, pointing out its independence and impartiality. He explained that the practices of other EU Agencies had been reviewed in the drafting process and added that consultants working for ECHA would also be covered by the policy. He agreed to two changes in the text to reflect that the declarations of ECHA management staff and chairpersons of ECHA Committees would be published on the website and that the template for declarations of interests could only be amended by the Management Board.

The Board endorsed the ECHA Policy on potential conflicts of interest. The Board also adopted corresponding amendments to its Rules of Procedure and the code of conduct of the Board of Appeal in order to implement the new declaration of interests. The new policy would be published on the ECHA website.

12. Appointment of Committees members
(MB/46/2011)

The Board appointed Ms Gera Maria TROISI (CY) to the Committee for Risk Assessment, and Ms Maria Jesús RODRIGUEZ de SANCHO (ES) to the Committee for Socio-economic Analysis.

13. Probationary report of technically qualified member of the Board of Appeal
(MB/47/2011)

The Board confirmed the technical member of the Board of Appeal, Mr Andrew FASEY, in his functions.

14. Integrated quality management
(MB/48/2011)

The Executive Director presented the progress made in establishing the Agency's Integrated Quality Management System (IQMS) since September 2010. An activity and process structure had been established as a common basis, which was being used for work planning, staff model and cost accounting. Seventy-seven new IQMS documents had been approved, and the quality organisation had been strengthened. The IQMS assessment and gap analysis had been carried out. The outcome had been discussed with the Quality Steering Committee and related actions were agreed. The next assessment was planned for autumn 2012.

The Board member in the Quality Steering Committee, Mr FARRUGIA, referred to the progress made so far with the IQMS, its assessment and gap analysis, and the need for an internal audit plan for quality. He mentioned the ISO 9001 certification as a good way forward.

In the following exchange of views, the roadmaps leading to ISO 9001 certification and to introduce the EMAS (EU Eco-Management and Audit Scheme) standard were shortly discussed.

The Board took note of the item.

15. Report from the Executive Director
(MB/49/2011)

The Executive Director reported on the Agency's activities and main achievements since June.

Board members congratulated him for the excellent achievements. One Member State representative referred to the Executive Director's informative speech at the REACH conference in Brussels on 23 September and asked that this speech be distributed to the Board members.

The following discussions focussed on substance evaluation, nanomaterials, missing substances from the 2010 registration, the use of the new enforcement IT tool (RIPE), as well as the workload for ECHA staff and the prioritisation of the Agency's work.

Some Member State representatives were concerned about the Member States' access to REACH-IT and IUCLID databases. The data from registration dossiers should be made more available in order to achieve REACH objectives, such as innovation and the substitution of dangerous substances, it was asserted.

The participation of stakeholder observers at Forum meetings was also discussed in the context of ECHA's transparency towards stakeholders. In this regard, the Commission was urged by a Board member to ensure timely appointment of Board members from interested parties whose term of office had already expired. The Director of Cooperation clarified how the stakeholder and transparency issues were taken into account in the functioning of the Forum .

The Executive Director thanked the Board members for their feedback. He replied that the missing substances from the 2010 registration needed further examination; a gap analysis was being finalised, and this report from the Directors Contact Group could be distributed to the Board, along with the Executive Director's speech from the REACH conference. He also explained the development of the Agency's IT tools: in the next generation of REACH-IT and IUCLID, the database structure would be improved which would then facilitate the targeting of substances, and the RIPE tool for enforcement would be further developed.

The Management Board took note of his report.

16. Exchange of views with the Malta Competition and Consumer Affairs Authority on REACH & CLP tasks and cooperation with ECHA

Ms Ingrid BUSUTTIL from the Malta Competition and Consumer Affairs Authority (MCCAA) presented the Board with the country's national REACH and CLP implementation and enforcement approach on chemicals legislation. She gave an informative overview of the functions of the newly created Authority; and of REACH and CLP implementation in Malta, including Forum and helpdesk activities, as well as the main achievements. The latter included successful information campaigns, seminars and workshops, a security structure for REACH-IT, and an established helpdesk. Ms BUSUTTIL also mentioned the challenges related to resources in a small organisation. The MCCAA was very interested in cooperation with other Member States, for example, in preparing a joint Annex XV dossier. She also thanked ECHA for the support provided for their helpdesk.

The Board members were very interested in learning more about the situation in Malta. They asked about biocides; joint Annex XV dossiers; cooperation with other Member States; feedback from Maltese companies; the use of resources; and priority-setting. One member remarked that chemicals and competition issues would now be administrated by the same authority in Malta and requested how that worked.

Ms BUSUTTIL continued that the Maltese resources were very limited, and therefore they had to prioritise; participation in international meetings was sometimes particularly difficult. The Maltese industry was so far content with the support provided to it. In the new Authority, different entities would have their own legal responsibility and also be physically separated. To clarify enforcement issues, the E-REACH Committee would meet regularly and exchange information.

The Executive Director and the Chair thanked Ms BUSUTTIL for the inspiring presentation. The Board took note of the information provided.

17. Requests from third countries

(MB/50/2011)

The floor was given to the Director of Cooperation to present two separate requests received from the Republic of Croatia and the Republic of Serbia. The Croatian request under Article 106 of the REACH Regulation concerned the country's participation in the work of ECHA's expert bodies as an observer, whereas Serbia was interested in participating in the work of the Agency's helpdesk network (HelpNet).

The Board welcomed the participation of Croatia in ECHA's bodies in advance of the formal accession of the country to the European Union.

Concerning the Serbian request, a Commission representative reminded the Management Board that the country was not yet an EU candidate country, and that there should be clear criteria for third country participation in HelpNet activities. It was suggested to postpone the decision until the next Board meeting.

Several Member State representatives argued in favour of Serbia's participation in the HelpNet. They stated that the country was well prepared for REACH activities and that many achievements had already been accomplished in the course of EU-financed twinning and bilateral assistance projects. It was also highlighted that the proposed participation of Serbia was restricted to the HelpNet activities which were not exposed to the sharing of any confidential or otherwise sensitive data but highly instrumental for getting familiar with EU chemicals legislation. Other members emphasised that public criteria on the participation had to be defined before a decision could be taken. It would, therefore, be better to invite Serbia to the next meeting on an *ad hoc* basis and postpone decision on their longer term participation until the criteria had been defined.

The Director of Cooperation responded that the HelpNet was already able to invite any third countries to participate, independently of their candidate status. He highlighted that criteria for the inclusion of third countries in ECHA's activities had been agreed upon by the Board in 2008 and that these criteria had been the basis for assessing both requests. The existing criteria were available on the ECHA website. He referred to consensus among HelpNet members established by written procedure as well as to existing cooperation projects between the EU and Serbia, and expressed his wish to invite Serbia to the HelpNet meeting in October.

The Board decided in agreement with the Committees and the Forum to invite representatives from the Republic of Croatia to participate as observer in the work of ECHA's Committees and Forum in order to observe practices and to get prepared for full EU membership.

In relation to the request from the Serbian Chemicals Agency, the Board decided that the national helpdesk would be invited as a guest to the HelpNet meeting in October. The Board postponed its decision on whether the Serbian helpdesk would be invited to join the work of the HelpNet as an observer to its December meeting. In this context, the Secretariat should provide the Board with a more elaborated set of criteria for the inclusion of third countries in the work of the Agency.

18. Activities on downstream user obligations and substances in articles (MB/51/2011)

The Director of Risk Management presented to the Board future support activities for companies, such as online tools for notification and reporting, practical support on various matters, review of web page and manuals, as well as training for national helpdesks. The ECHA-stakeholder exchange network on exposure scenarios would hold a first meeting in November.

The Board members were in favour of the planned activities and stated that ECHA's support would be important to reach the downstream users in the Member States, many of whom were SMEs not fully conversant in the English language. One Member State representative raised the question of relations with the customs and import of substances in articles.

A participant representing interested parties mentioned the low awareness among many downstream users on their REACH obligations. He offered the help of trade unions for eventual awareness-raising campaigns. Another representative of interested parties said that the system for IUCLID reporting was now very complex and that a simpler procedure would be needed.

The Director of Risk Management clarified that further tools for submitting reports would soon be online and thanked the Board member representing interested parties for the suggestion of cooperation on awareness-raising activities. The Executive Director then mentioned that ECHA would later organise a webinar to present these new tools to downstream users and would ask all national helpdesks to hold a similar webinar in their languages in order to reach smaller companies also. He also welcomed the offer to raise awareness via trade union representatives.

The Board took note of the report.

19. Planning of substance evaluation (MB/52/2011)

The Director of Evaluation presented the plans on substance evaluation to the Board. The draft rolling action plan (CoRAP) would be submitted to the Member State Committee in

October 2011, it was noted, and the final plan should be published by 1 March 2012. The service contracts for substance evaluation should be signed by the Member State Competent Authorities by January 2012.

During the subsequent discussion, Board members asked about the enforcement of the substance evaluation decisions and requested improved IT tools to support substance evaluation activities.

Several Member State representatives requested that the Board revisit the calculation methods for establishing the reimbursements to Member States for such work. Currently, there would be big differences between the countries and the real costs of the work done would not be reflected, while the difficult budgetary situation in many Member States also merited attention in this context. Cooperation among the Member States should also be facilitated by the system.

The Director of Evaluation replied that the Competent Authorities Directors' meeting in December at ECHA would be a good opportunity to jointly discuss the evaluation plans of all Member States and encourage cooperation. She said that the scale of payments was a wider issue, needing a discussion in the corresponding working group. If further assistance on ECHA's IT tools was needed, experts from the national authorities could come to the Agency to work directly on the databases for a certain period of time.

The Executive Director said that the reimbursement rules would be reviewed only by the end of next year. The working group could, however, prepare the item and bring it to December meeting. If any changes were to be proposed to the existing system, these should be budget neutral in order for the Agency to avoid putting its already delicate future financing at risk.

The Board took note of the state of play of the substance evaluation activities.

20. Any other business

Report on the outcome of written procedure MB/WP/02/2011

The Chair introduced the positive outcome of the written procedure concerning the revision of the REACH-IT Security Declaration and Standard Security Requirements in order to include the access of Member State authorities to a new IUCLID Member State database. On request of one Member, ECHA clarified that the security arrangements for access to the IUCLID database would not be lower than those for the REACH-IT database. A letter sent by a Commission representative would be replied to in this context. Several Member State representatives emphasised their high interest in receiving access to the new database.

Biocides preparations – state of play

The Board received an update about the state of play with regard to biocides preparatory activities.

Update from the advisory group on dissemination

The Board received a short report from an advisory group meeting that had taken place on the evening before the present Board meeting. In reaction to the report, several Board members asked that the mandate of this advisory group be revisited. It was also agreed that the Dutch member would join the group and that a further meeting should be held in November. The advisory group would report on its proceedings at the December Board meeting.

Access to documents

The Board received an update about Access to documents requests in 2011.

MSCA Directors planning meeting

The Board was informed of the agenda for the first MSCA Directors planning meeting, to be held at ECHA on 14 December 2011.

Graduate scheme on chemical policies

The Executive Director presented the state of play of the graduate scheme, which would be launched in Rome on 11 November.

23. Next meeting and closure

The Chair reminded members that the next meeting of the Management Board would be held in Helsinki on 15-16 December 2011.

III. Decisions taken / Conclusions reached by the Management Board

The Management Board

- adopted the agenda for its 23rd meeting as contained in MB/A/03/2011.
- approved the minutes of its 22nd meeting, subject to subject to the amendments indicated in the corrigendum attached to the present minutes. (MB/M/02/2011).
- decided to inform the Commission that the Board intends to prolong the mandate of the Executive Director and that, consequently, no selection procedure in accordance with Article 84(1) of the REACH Regulation shall be launched.
- took note of the budgetary transfers indicated in document MB/41/2011.
- appointed Carl Urban WESTERBERG as the Accounting Officer (MB/42/2011).
- provisionally endorsed the work plan for international activities for 2012 (MB/43/2011).
- adopted the Agency's Work Programme for 2012 as contained in document MB/44/2011.
- endorsed the ECHA Policy on potential conflicts of interest as contained in document MB/45/2011.
- adapted annex 1 to its Rules of Procedure (MB/02/2007 final) to align the model for declaring interests with the annex of the ECHA Policy on potential conflicts of interest.
- amended its decision MB/75/2008 final regarding the declarations of the members and alternates of the Board of Appeal, to replace annex 3 to this document with the annex to ECHA Policy on potential conflicts of interest (subject to the adjustments necessary to reflect the specific nature of the Board of Appeal).
- appointed Ms Gera Maria TROISI as a member of the Committee for Risk Assessment and Ms Maria Jesús RODRIGUEZ de SANCHO as a member of the Committee for Socio-economic Analysis.
- confirmed the technical member of the Board of Appeal, Mr Andrew FASEY, in his functions.
- decided in agreement with the Committees and the Forum to invite the Republic of Croatia to participate as an observer in the work of the Committees and the Forum (Article 106 of the REACH Regulation).
- decided to invite representatives of the national REACH and CLP helpdesk of the Chemicals Agency of the Republic of Serbia as a guest to the meeting of the HelpNet in October 2011.

List of agreed follow-up actions

- The Board will review its practice in relation to the presence of observers at closed sessions.
- The Secretariat will circulate the Executive Director’s speech that was delivered on September 23 in Brussels, at a REACH conference.
- The Secretariat will provide Board members with the gap analysis made for the Directors Contact Group on missing substances from the 2010 registration.
- The agenda of the meeting of December 2011 will include a report from the advisory group on dissemination; an agenda item on the future challenges and tasks of ECHA, an agenda item on criteria for the participation of third countries in ECHA’s work; and information on the status of the REACH-IT and IUCLID database implementation in Member States.

Pending 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.”

IV. List of Attendees

Representatives of the Member States

Karel BLAHA (CZ)
Nina CROMNIER (SE)
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)
Ionut GEORGESCU (RO)
Thomas JAKL (AT) also acting as proxy of Mr SACCONI and Mr
ADAMIS
Jan Karel KWISTHOUT (NL)
Antonello LAPALORCIA (IT)
Martin LYNCH (IE)
Boyko MALINOV (BG)
Edyta MIEGOC (PL)
Catherine MIR (FR)
Leandros NICOLAIDES (CY)
Alexander NIES (DE)
Edita NOVÁKOVÁ (SK)
Armands PLATE (LV)
Aive TELLING (EE)
Marija TERIOSINA (LT)
Eskil THUESEN (DK)

Representatives of the Commission

Gustaaf BORCHARDT also acting as proxy of Ms ANKLAM and Mr
ZOUREK
Gwenole COZIGOU on behalf of Mr ZOUREK

Independent persons appointed by the European Parliament

Hartmut NASSAUER

Representatives from interested parties

(invited by the Chair in consultation with the Executive Director)

Martin FUEHR
Guy THIRAN
Tony MUSU

Observers from EEA/EFTA countries

Henrik ERIKSEN (NO)

Other Observers

Astrid SCHOMAKER (European Commission)
Elena PASCUAL JIMÉNEZ (European Commission)

ECHA staff

Geert DANCET (Executive Director)
Jukka MALM (Director of Regulatory Affairs)
Leena YLÄ-MONONEN (Director of Evaluation)
Jack DE BRUIJN (Director of Risk Management)
Andreas HERDINA (Director of Cooperation)

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)

Milena STOYANOVA (Management Board Assistant, Executive Office)
Gaida LAPITAJŠ (Quality Manager, Executive Office – for agenda item 13)

Annex

Corrigendum to the minutes of the 22nd Management Board

2. Exchange of views with Commission Vice-President Antonio TAJANI (proposal by Mr FUEHR)

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.*

13. Handling conflicts of interests at ECHA (MB/26/2011) (proposal by Mr MUSU)

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.

19. Forum issues (MB/35/2011, MB/36/2011) (proposal by ECHA Secretariat)

The Executive Director replied that alternate Forum members were entitled to vote. ~~Experts could still join the Forum meetings, but they would not be reimbursed by ECHA.~~ *They could also join the Forum meetings (accompanying members), but they would not be reimbursed by ECHA.”*

List of agreed follow-up actions (proposal by Mr FUEHR)

- *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.*