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ECHA's approach to Transparency

Transparency – what is it?

Transparency has been defined in many ways. However, some of the basic elements of openness and transparency are embedded in the EU treaties and in secondary EU legislation, which state that:

- "Decisions shall be taken as openly and as closely as possible to the citizen"¹.
- "The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society"²
- "In order to promote good governance and ensure the participation of civil society, the Union's institutions, bodies, offices and agencies shall conduct their work as openly as possible."³
- "In principle, all documents of the institutions shall be accessible to the public"⁴.

Openness and transparency are also included in other EU regulations and soft law⁵ and ECHA has implemented all recommendations of the European Court of Auditors regarding the transparent management of conflicts of interest.⁶ As an EU agency, it is important for ECHA not only that there is good administration but also that, in the eyes of the citizens, good administration is seen to be done.

ECHA, and any public body that seeks to be transparent should build on the three basic pillars:

1. **It clearly explains activities and processes** in a way that is understandable by a general audience. The Agency therefore describes its role, its activities, how it works, who works there and how it achieves its results.
2. **It practices open decision making.** It describes clearly who makes decisions, who is involved, how and when it consults the public, how stakeholders can observe and contribute and how bias is avoided.
3. **It makes information available, in a timely manner.** It makes information available proactively and provides it in such a way that citizens can easily understand and reuse it, in whole or in part.

Transparency is one of the five core values of ECHA alongside trustworthiness, independence, efficiency and commitment to wellbeing. All of the five values are embedded in the organisation of the Agency and the way it interacts with other institutions and stakeholders. In committing to transparency, ECHA says that "we are open and transparent in our actions and decision making. We are easy to understand and to approach." The main goal of transparency

¹ See Article 10(3) of the Treaty on the Functioning of the European Union.

² See Article 11(1)-(2) of the Treaty on the Functioning of the European Union.

³ See Article 15(1) of the Treaty on the Functioning of the European Union.

⁴ See Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents and Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies.

⁵ See Staff Regulations of Officials of the European Union, ECHA Code of Good Administrative Behaviour (MB/11/2008), Public Service Principles of the European Ombudsman, etc.

⁶ See Special Report 15/2012 Management of Conflict of Interest in selected EU agencies, available at http://www.eca.europa.eu/Lists/ECADocuments/SR12_15/SR12_15_EN.PDF

shall thus be to give interested parties the ability to question, challenge and hold the organisation and its management to account.

From the start, ECHA has strived to be a transparent organisation, and as a result, each of the three pillars are already well developed and embedded in the daily work of the Agency.

1. Clearly explained activities and regulatory processes

ECHA's main communication channel is its multilingual website. Based on testing and feedback, it is relatively intuitive to use and easy to navigate, given the complexity and range of the content on offer. Most of its content is published in all EU languages so as to be accessible to citizens in all Member States. The Agency strives to communicate in easy to understand language.

On the website, users will find descriptions of all the Agency's activities and processes. The material is often in layers, so that users requiring more than a simple explanation can find more detail. The primary website users are companies with responsibilities under the legislation implemented by the Agency, but material specifically targeted at more general audiences is also provided there.

ECHA is implementing an Integrated Quality Management System which conforms to international recognised standards so that all procedures are described in publicly accessible documents. The different activities and regulatory processes of the Agency are thus also documented in this more formal way.

ECHA also publishes its multiannual and annual work programmes to show how it intends to use its resources and gives full account on the results achieved in annual reports. All of these documents are available online.

Finally, contact details and the declarations of all key staff within the Agency (as well as members of its governing board and scientific committees) are published online.

2. Open decision making

The REACH Regulation which established the Agency already builds elements of transparency into the decision-making processes. It requires public consultations for example before many decisions can be taken and requires the Agency to work closely with its stakeholders to achieve many outcomes. The decision-making processes of the Agency are therefore designed to be clear, open and ensure a balanced outcome based on a reasoned scientific approach.

First of all, information on ECHA's and the Member States' intentions – for example to look into substances or create dossiers which can lead to regulation - is available online, so that companies can take informed business decisions. In some of the processes case owners are consulted during the decision making.

Companies affected by ECHA's decisions are informed of the outcome, the reasons for it, the next steps that will be taken and the rights that they have in this respect. Direct contact with the Agency is facilitated.

The Agency ensures that the actors involved in decision making declare any private interests they hold and that measures are in place to avoid conflicting interests affecting decisions. The declarations of the key actors⁷ are available online.

Accredited Stakeholder Organisations (organisations who apply to work with ECHA and meet five simple criteria – the criteria and the names of the Accredited Stakeholders are available online) can participate in scientific meetings as observers, except where business confidentiality requires closed sessions. This enables them to witness the debate and decision-making process, and, where appropriate, express their views. Accredited Stakeholder

⁷ This includes the declarations of interest of the members of ECHA's Management Board, Forum, Committees, Board of Appeal and of the ECHA management.

observers can in most instances intervene, distribute documents and have key points recorded in the minutes, at the discretion of the respective chair.

Where a public consultation takes place, the comments received are addressed. The reflections, minority opinions and conclusions of the scientific committees of the Agency are reflected in public opinions and/or minutes. When conclusions are drawn, the Agency communicates clearly to the affected parties. Conclusions on a substance level are also widely communicated towards the public at large, except those elements covered by business confidentiality.

3. Information available, in a timely manner

ECHA has the largest regulatory database on chemicals in the world. The information contained there is extremely valuable in the context of improving chemical safety. The Agency has worked consistently to make most of the data from the submitted dossiers that is of value to the public available on line in a user friendly, searchable and downloadable form. This includes information on hazardous properties, their classification and labelling and how to use the substances safely. The Agency also provides full data access to the European Commission and Member States to enable their efficient contribution on regulatory work and enforcement.

ECHA also contributes at an international level to the safe use of chemicals, for instance by hosting and contributing to the eChemPortal, the database developed by the OECD which provides free public access to information on properties of chemicals.

Minutes, key documents, opinions and decisions of ECHA's governing body and scientific committees are published on the ECHA website.

In general ECHA operates under the assumption that all documents it produces are in essence available to the public, unless an exception foreseen in EU legislation prevents the Agency from disclosing such information.⁸

Finally, an extensive set of training materials and guidance documents are available to duty holders, as well as a helpdesk service. Annual Stakeholder Days are also organised where interested parties are informed on policy directions and the progress made in the development of the different tools. They can also request direct support through one-to-one sessions.

4. Balancing transparency with the other core values of the Agency

Transparency can never be absolute – there must always be a balance. Therefore, transparency cannot be seen in isolation, but it also needs to be balanced with the other core values of the Agency and the limits set by law. Data owners have an equally important right to have confidential business information, intellectual property rights, personal data or their right to seek legal redress before the Board of Appeal or a court of law protected.

Trustworthiness

Most of the scientific data held by the Agency has been provided by the chemical industry. The Agency therefore needs to respect the rights of the data owners. ECHA also needs to respect intellectual property rights and the right to the protection of confidential business information. Although the Agency has to make information available to the public, data owners have the right to claim certain information confidential⁹. However, ECHA will examine these claims and where appropriate reject them. All individuals that interact with the Agency also have a right to the protection of their personal data.¹⁰ Disclosure of information shall therefore be balanced against these equally important principles.

⁸ Regulation (EC) No 1049/2001 on public access to documents.

⁹ See Article 119(2) of the REACH Regulation.

¹⁰ Regulation (EC) No 45/2001 on the protection of personal data.

Independence

ECHA's opinions and decisions shall be science based. The experts in the Agency's scientific committees must therefore be independent and free from external pressure. The Agency can avoid actual or perceived influences by being open and transparent about the private interests held by the decision-makers, by reporting on declarations of potential conflicts of interest in the minutes and by attendance of meetings by observers representing the different interests at stake. The selection procedure of such observers ensures a balanced representation of civil society and industry interests. Not every opinion expressed by an interested party can be acted upon by the committees or the Agency.

Efficiency

Transparent processes can make a major contribution to efficient decision making. When the Agency makes information easily and timely available, the solicited and spontaneously provided input of the public will be more helpful and efficiently provided.

However, ECHA also needs to design its decision-making processes in a lean and efficient manner, including clear timelines. In order to avoid endless discussions, it cannot foresee public consultation on every action it takes, but instead focuses consultation on the processes that matter and on the steps in those processes that require the collection of all possible pertinent information or can cause a significant change for industry or for the protection of human health and the environment. In most cases this balance is already taken into account in the legislation. Finally, it should be kept in mind that the Agency has limited resources and has to set priorities in implementing actions that improve transparency.

Committed to well-being

The EU's groundbreaking chemicals legislation has well-being at its core – the protection of human health and the environment. By working in a transparent way for the public interest, ECHA enables, where relevant and practically feasible, the input of all stakeholders to improve the quality of decision making and, where possible, the efficient substitution of dangerous chemicals from the market. It also helps to generate trust in the EU's actions to make Europe a safer place.

5. Continuous improvement

The Agency makes a firm commitment to continue to improve its transparency, in particular by responding to the needs of its stakeholders – of course, within the same boundaries mentioned earlier of resource limitations and the other core values of the Agency, including the established rights of duty holders and third parties.

ECHA has now consulted its Accredited Stakeholders¹¹ in two subsequent annual strategic workshops, to understand their perspective and appreciate their shared priorities for improvement. From a long list of ideas generated by the stakeholders and ECHA, they made six shared recommendations which can be boiled down to the following three issues:

1. Further developing ECHA's work to improve the dissemination of information on chemicals and extending it to cover decisions taken by the Agency, so as to give a "start to finish" picture of what's happening to dossiers and substances;
2. Improving our communication, by reviewing the website structure and making all our communication clearer;
3. Improving the transparency of Committee meetings, by providing more explanation and information on the processes and decision making and by reviewing observer and third party involvement.

¹¹ <http://echa.europa.eu/web/guest/about-us/partners-and-networks/stakeholders/echas-accredited-stakeholder-organisations>

Annex – Overview of transparency initiatives

ECHA Transparency initiatives	
1. Clearly explained activities and processes	
Easy-to-use website, including page on 'Chemicals in our lives' for consumers.	http://echa.europa.eu/chemicals-in-our-life
Transparent planning and reporting of ECHA work.	http://echa.europa.eu/about-us/the-way-we-work/plans-and-reports
Transparent financial management and budgetary reporting	http://echa.europa.eu/about-us/the-way-we-work/financial-management-and-budgetary-reporting
Transparent public procurement and selection and recruitment procedures.	http://echa.europa.eu/about-us/procurement and http://echa.europa.eu/about-us/jobs/open-positions
Organisational chart and directory of key staff published	http://echa.europa.eu/web/guest/about-us/who-we-are/organisation and http://echa.europa.eu/documents/10162/13560/staff_directory_en.pdf
Public procedures and processes	http://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/public-procedures
Multi-lingual practice	http://echa.europa.eu/about-us/the-way-we-work/multilingual-practice

2. Open decision making	
Accredited organisations	stakeholder http://echa.europa.eu/en/about-us/partners-and-networks/stakeholders
Publication of Community Rolling Action Plan (CoRAP)	http://echa.europa.eu/information-on-chemicals/evaluation/community-rolling-action-plan/corap-table
Publication of Registry of intentions	http://echa.europa.eu/web/guest/addressing-chemicals-of-concern/registry-of-intentions
Public Activities Coordination Tool (PACT)	http://echa.europa.eu/addressing-chemicals-of-concern/substances-of-potential-concern/svhc-roadmap-implementation-plan/pact
Public consultations	http://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/independence/public-consultations
Publication of response to comments (after public consultation)	http://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/independence/public-consultations
Public minutes of meetings of Management Board, Committees and Forum	http://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/independence/committee-and-enforcement-forum and http://echa.europa.eu/web/guest/management-board-documents
Participation of stakeholder observers and case-owners to meetings of Management Board, Committees, expert groups and networks	http://echa.europa.eu/web/guest/about-us/partners-and-networks/stakeholders/cooperation-with-accredited-stakeholder-organisations
Transparent procedure for avoidance of conflicts of interest: <ul style="list-style-type: none"> - All important procedures related to conflict of interest management are made public; - Publication of annual declarations of interest of all members of ECHA bodies (Management Board, Committees, Forum and Board of Appeal) and ECHA management staff to allow public scrutiny; - Recording of meeting-specific declarations and mitigating measures in public minutes. 	http://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/conflicts-of-interest
Public hearings by Board of Appeal	http://echa.europa.eu/about-us/who-we-are/board-of-appeal/hearings
Publication of Management Board decisions, Committee opinions, recommendations and agreements	http://echa.europa.eu/web/guest/management-board-documents http://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/independence/committee-and-enforcement-forum

Publication of Committee opinions, recommendations and agreements	http://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/independence/committee-and-enforcement-forum
Publication of Board of Appeal decisions	http://echa.europa.eu/about-us/who-we-are/board-of-appeal/decisions
Publication of evaluation decisions	http://echa.europa.eu/regulations/reach/evaluation/requests-for-further-information/evaluation-decisions
3. Information available, in a timely manner	
Publication of pre-registered and registered substances (dissemination portal)	http://echa.europa.eu/web/guest/information-on-chemicals/pre-registered-substances and http://echa.europa.eu/web/guest/information-on-chemicals/registered-substances
Publication of information from the Existing Substances Regulation	http://echa.europa.eu/web/guest/information-on-chemicals/information-from-existing-substances-regulation
Classification & Labelling inventory	http://echa.europa.eu/web/guest/information-on-chemicals/cl-inventory
Publication of list of active biocidal substances and suppliers	http://echa.europa.eu/information-on-chemicals/active-substance-suppliers
Correct application of Regulation (EC) No 1049/2001 regarding public access to documents. ECHA discloses on request hundreds of documents every year.	http://echa.europa.eu/web/guest/about-us/the-way-we-work/procedures-and-policies/access-to-documents
Targeted communication vehicles and document library	http://echa.europa.eu/publications and http://echa.europa.eu/web/guest/support/documents-library
Helpdesk	http://echa.europa.eu/support/helpdesks
Guidance	http://echa.europa.eu/support/guidance
Webinars	http://echa.europa.eu/support/training-material/webinars
Annual Stakeholder day (including possibility for one-to-one sessions)	http://echa.europa.eu/web/guest/news-and-events/events#ninth-stakeholder-s-day
Regular events and workshops	http://echa.europa.eu/en/news-and-events/news-alerts
ECHA information desk	http://echa.europa.eu/web/guest/echa-information-desk