

Minutes of the 34th meeting of the Management Board

Held in Helsinki from 17 to 18 June 2014

I. Summary record of the proceedings

The Chair opened the meeting by welcoming the participants, in particular the new Board members appointed by Council, Mr Tristan Charles CAMILLERI from Malta and Mr Henrik Søren LARSEN from Denmark.

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

1. Agenda (MB/A/02/2014 rev.01)

The following room documents were tabled:

- Draft opinion on ECHA's 2013 accounts prepared by the Working Group on audit matters on 16 June 2014 (agenda item 6).
- Updated list of Directors of competent authorities, designated national authorities and mandated national institutions.
- European Union draft budget for 2015, key figures for ECHA.

The agenda of the meeting was adopted.

2. Declaration of specific interests

The Chair informed the members of the Management Board that she reviewed the members' declared conflicts of interests, together with the Secretariat, in accordance with ECHA's policy on conflicts of interests. No conflicts relating to the agenda of the 34th Management Board meeting were identified.

The Chair invited the members to further declare any specific interests that could not be drawn from their declarations of interests and which could be considered to be prejudicial to their independence with respect to any item on the agenda. No further specific interests were declared.

The Chair reminded members and observers to make their CVs available to the Secretariat for publication.

3. Minutes of the 33rd Management Board meeting (MB/M/01/2014)

The draft minutes of the 33rd Management Board meeting, held from 17 to 18 March 2014 in Helsinki, were approved without amendments.

4. Quarterly report on ECHA's activities (MB/16/2014)

The Management Board heard the quarterly report on the Agency's activities and achievements since the last meeting. The report was presented by the Executive Director and the Deputy Executive Director and informed also of the status of Work Programme indicators. ECHA's SME ambassador presented his activities targeted to small and medium sized companies mentioning the most important ones since the last report in March.

The Board members congratulated the Secretariat for the impressive work and held an exchange of views on various aspects.

Main topics

Several members emphasised that the progress with ECHA recommendations for the Authorisation List should continue as planned, calling for the separation of the ECHA process from policy developments at Commission level. The Secretariat clarified that ECHA is preparing its sixth recommendation as planned, with a public consultation starting in September. The final recommendation is expected to be submitted to the Commission in early 2015. The high number of substances proposed to be included in the Authorisation List this year will provide the industry with a better longer term perspective and more predictability about which substances are likely to be included in the Candidate List. The Executive Director reminded the Board that Member States need to keep submitting Annex XV proposals for adding new substances to the Candidate List in order to achieve the European Union policy target of including all currently known Substances of Very High Concern (SVHC) in the Candidate List by 2020.

On the target for REACH compliance check decisions, Board members noted the lower number of completed evaluations. The Secretariat informed that this was due to several reasons, mainly the high workload from following up on draft evaluation decisions adopted in 2013. The Secretariat announced that it would report back to the Management Board on the expected gap recovery by the end of the year. As regards the future Compliance Check Strategy, the Management Board was informed that this issue will be discussed by CARACAL in July and be brought to the Management Board in September in the context of the 2015 Work Programme preparation.

Another issue raised by one Board member was the importance of obtaining clear substance identity information from companies during the registration process, particularly ahead of the next registration deadline in 2018. The Secretariat informed the Board that the planned update of the technical completeness check (TCC) routine will increase the amount and structure of information relevant to the identity of the substance. The update of the TCC will be discussed at CARACAL with Commission, Member States and Accredited Stakeholders Organisations. In addition, there will be other measures to address substance identity shortcomings in the registration dossiers, for example targeted communication campaigns based on IT screening.

A Commission representative highlighted the good progress made by the Secretariat with increasing the efficiency of the REACH restriction process.

A discussion took place on whether it is appropriate for the rapporteur Member State to make use of the possibility to intervene in support of the ECHA Secretariat in substance evaluation appeal cases. When recently processing the first appeal cases of this kind,

the Secretariat informed the Member States responsible for the drafting of the ECHA decisions of the possibility to intervene in the appeal cases, in particular to provide in-depth knowledge of the case. Two Board members questioned the appropriateness for Member States to intervene in an internal administrative review of ECHA's decision, remarking that the decision ultimately taken by the Board of Appeal remains an ECHA decision.

An interested party representative emphasised that industry was appreciating recent thematic workshops organised by ECHA. He also referred to the importance of international cooperation, highlighting that the implementation of chemicals policies has a global dimension and requires good coordination.

In response to a question related to translations of the guidance document on treated articles in the area of the Biocidal Product Regulation, the Secretariat reminded the Board that this is a responsibility of the Commission and that no budget has been allocated to ECHA for such translations.

Board members asked the Commission representatives to provide an update on the TTIP negotiations with the US in relation to the chemicals sector, once it is possible to reflect on possible implications for ECHA.

The Management Board took note of the information.

5. Multi-annual Work Programme 2014-2018 (review of annexes) (MB/17/2014)

When adopting the ECHA 2014-2018 Multi-annual Work Programme (MAWP) in September 2013, the Management Board concluded that the annexes of the Programme will be reviewed annually, whereas the body of the text will be fixed for five years unless there is an imminent need for changes. The Secretariat reviewed the annexes, proposing several amendments. The proposal was refined by the Management Board Working Group on Planning and Reporting on 16 June. The Executive Director presented the final proposal.

This was followed by an exchange of views.

Overall the proposed amendments were supported by the interventions. The recommendation made by the Working Group Planning and Reporting on 16 June were agreed, namely that the preparation of "simplified access to guidance for SMEs" should be brought forward by a year to 2016; the "Clarity of the interpretation of 0.1 % criterion" should remain as critical success factor and an action in 2015 related to the workplan on Test Methods should be clarified by adding "including alternative test methods".

The Commission representatives highlighted that the staff evolution table attached to the MAWP does not reflect the 2013 Commissions' Communication on resources in decentralised agencies. It was noted that this is due to the fact that the Management Board decided in March 2014 to base the ECHA budget requests on the identified resource needs and to update the planning documents later in the year in accordance with the decision of the budgetary authority (the European Parliament and the Council) on the 2015 budget.

On this basis the Management Board adopted the amendments to the annexes of the MAWP 2014-2018. The amended annexes will be published.

6. Opinion of the final accounts for 2013 (MB/18/2014)

The Management Board received a presentation from the Director for Resources on the preliminary final accounts of the Agency for 2013 as well as the Court of Auditor's observations thereon.

Afterwards the Chair of the Working Group on audit matters introduced the Working Group's proposal for a Management Board opinion on the accounts. This proposal had been prepared on the day before after hearing the accounting officer and reviewing all relevant supporting material, in particular the observations from the Court of Auditors.

As in previous years, the Court of Auditors provided positive observations on the accounts and ECHA's financial management. This was strongly welcomed by the Management Board. The Court of Auditors confirmed in particular that the transactions underlying the annual accounts for the year ended 31 December 2013 are legal and regular in all material respects. Remarks made by the Court concerned the carry-over of appropriations, which were in all cases noted as planned, as well as the limited scope of the Executive Director's declaration of assurance.

The Executive Director informed about the draft replies of the Agency to the Court of Auditors' observations: The Agency will commit to continue being attentive and avoid any non-justified carry-over operations. In reply to a second observation, the Agency reminded that the scope limitation of the Executive Director's declaration was introduced as a response to findings of the Court of Auditor's audit team in 2013. It was then remarked that ECHA could not confirm that only registered or authorised substances and products, for which a fee has been paid to the Agency, are circulating on the EU market. By way of reaction to this finding, ECHA introduced the qualifier in the declaration emphasising that the mandate of ECHA does not include controls or inspections at national level.

In line with the proposal prepared by the Working Group on audit matters, the Management Board adopted its opinion on the final accounts, noting that the Court of Auditors made no reservations and confirming that the Board has obtained sufficient assurance to conclude that the said accounts, taken as a whole, represent a true and fair view of the implementation of ECHA's budget.

A discussion took place on whether it is appropriate to include in the Executive Director's declaration a qualifier on inherent limitations for ECHA in ensuring that all companies in the EU with registration obligations indeed fulfil these duties. It was questioned if the same practice is applied coherently for declarations of assurance of other EU agencies and institutions.

The Final Annual Accounts of the Agency, consolidated with those of the European Commission and together with the Agency's replies, will be published in the Official Journal of the European Union by 15 November 2014. The Executive Director was instructed to send the final accounts, together with the opinion of the Management Board, to the European Parliament, the Council, the Commission and the Court of Auditors, by 1 July 2015 at the latest.

7. Budget 2014 (MB/19/2014)

a) Amendments to the REACH/CLP budget and budget transfers

The Management Board received proposals for several amendments to the 2014 budget and information on recent budget transfers carried out within the responsibility of the Executive Director.

The technical amendments to the 2014 budget concerned the following:

- The remaining balance of the 2013 budgetary outturn account should, as foreseen by the Financial Regulation, be entered to the budget (REACH and CLP) as revenue.
- The special Biocides contribution from Norway received last December and for which a new dedicated budget line needs to be created.
- The net impact of the cashed bonds will be affected and the reserve will need to be decreased accordingly. This is a technical adjustment, ECHA made adequate profit with the investment in the past years, exceeding the Euribor reference rate.

The Management Board adopted amendments to the Agency's 2014 budget as proposed and noted the transfers carried out by the Executive Director. The inclusion of the funds provided by Norway in the 2014 budget was welcomed by the Norwegian observer.

b) Amendment to the Biocides budget – Biocides fee shortfall

A further amendment to the 2014 Biocides budget was proposed since the fee revenue from the Biocidal Products Regulation (BPR) continues to be significantly below the forecast. Based on a proposal by the Executive Director, the Board therefore reduced the foreseen expenditure by €1 million. It is expected that this should affect only in a limited way the 2014 Work Programme objectives, provided that the level of industry submissions remains on this lower than planned level. It was, however, noted that the reduction may have negative longer term implications for the implementation of ECHA's Biocides tasks.

The Director for Resources informed the Board that despite this reduction and a guarantee provided by the Commission for €1.5 million, there is still a potential gap of ca. €600 000 in the 2014 Biocides budget. Against this backdrop, the Board was asked for guidance on how to address this situation of uncertainty about sufficient resources for fulfilling basic obligations under the BPR. The available options included a request to the Commission for increased subsidy or further downsizing the Work Programme with a potentially disrupting effect on the implementation of the legislation.

It was noted in this context that a ring-fenced reserve fund, as proposed by ECHA in recent years to the Commission, would have been of significant benefit in the current budgetary situation.

A Commission representative informed that the Commission cannot commit to a subsidy increase at this stage and can also not create a buffer for Biocides by further increasing the provided guarantee. Since there appears to be a systematic deviation from the forecasts for fee relevant industry applications, it will be necessary for ECHA to make savings, especially because it will, from 2015 onwards, not be possible for the Commission to continue providing guarantees from other EU programmes. The Commission representative reminded the plenary of the circumstances during the legislative process leading to the adoption of the BPR Regulation. The Commission would have highlighted at the time that the increased tasks for ECHA, as concluded by

the legislator, will need to be financed and that the foreseen funds will not be sufficient for this. The BPR Fee Regulation and the current level of fees for ECHA and their implications should be seen in this context.

The Management Board held a fruitful exchange of views on the matter, discussing also the possible short- and medium-term implications for the Biocides tasks and the consequences for the level of fees at EU and national level (under review in 2015). Several members were concerned that some of the possible actions for further reducing the budget later in the year could eventually reinforce the financing problem. It was, therefore also recommended to re-examine the level of perfection and formality of ECHA processes in order to generate efficiencies. Members also pointed out that the dilemma with any of the proposed measures is that the BPR system still needs to be fully developed. Moving staff, cutting on meetings and reimbursement, reducing Member States or Commission support, delaying important IT tools etc. could hamper progress in the implementation. One Board member strongly disagreed on reducing the Agency's IT activity in the Biocides area, thus affecting companies who would have to pay for an erroneous forecast.

In terms of advice to the Executive Director, a call was made to continue discussions with the Commission on how to manage the situation with the lowest possible disruptive impact. If needed, a proposal for modification of the Work Programme should be prepared for the September 2014 Board meeting. The Chair concluded that the Working Group on Planning and Reporting should be involved in this exercise and that it should be considered carefully which actions to reduce. Furthermore, it should be considered to consult Member States competent authorities responsible for Biocides.

The Management Board adopted the reduction of the 2014 budget for Biocides.

8. Update of the Decision on the Transfer of Fees to Member States (MB/20/2014)

In line with a mandate given in the March 2014 meeting, the Management Board's specialised Working Group presented a proposal for a revised Decision on the Transfer of Fees to Member States. The proposed amendments concerned in particular the transfer of fees for the purposes of substance evaluation.

It was explained that changes are necessary to accommodate budgetary constraints; after the 2013 registration deadline, ECHA will only receive significant fee income for the 2018 registration deadline. Overall, the fee income will be at much lower levels compared to 2010-2013. At the same time, new fee transfers will have to be financed in the area of authorisation applications and restrictions. This requires reductions for individual transfers in order to ensure the financing of the Agency. Overall, the amount of fee transfers will nevertheless increase in the coming years.

A number of Member State representatives expressed reservations since the level of fee transfers per substance evaluation conclusion was on average proposed to significantly decrease compared to the current decision. These members were concerned that this could put the involvement of Member States at risk in an area which is a basic activity for ensuring regulatory output of REACH.

Other members supported the proposal as reasonable in view of the lower revenue.

In depth background discussions, including during an *ad hoc* meeting of interested Board members, helped to establish a mutual understanding of the situation on the required changes to the current fee transfer modalities.

In line with a proposal by the Chair of the Working Group, the Management Board agreed that an improved draft decision should be developed for the next Management Board meeting. This proposal should clarify that the proposal made by the Working

Group is based on the following principles: (1) Encouraging efficiency; (2) fee transfer contributes to the activities at Member State level but should avoid compensation higher than the actual workload incurred; (3) Limitations in the budget require the setting of an absolute ceiling and a reduction of fee transfer to Member States per activity. Moreover, (4) the implementation needs to be monitored and the modalities reviewed if the ceiling is triggered or work undertaken by Member States overly affected.

It was concluded that the Working Group will continue its work on the review of the Decision on Transfer of Fees on this basis with view to presenting a new proposal to the Management Board for adoption in September.

9. Audit matters (*MB/21/2014*)

a) Annual reports from the IAC and IAS

The Executive Director presented the annual reports produced by the Commission's Internal Audit Service (IAS) and the ECHA Internal Audit Capability (IAC). The reports summarised the results of audits conducted during 2013, highlighting the key recommendations and the follow-up actions.

The IAS conducted in 2013 an Audit on "Committees Management". The objective was to assess and provide independent assurance on the design and effective application of the internal control system related to the workings of the Committees. ECHA accepted all IAS recommendations and prepared an action plan. In the overall report for 2013, the IAS followed-up on the implementation of action plans from earlier audits. No critical recommendations were open at the end of 2013 and the follow-up is on track.

The ECHA IAC conducted three assurance audits in 2013 (Video-surveillance implementation at the ECHA premises; Forum secretariat; and Document and record management). In addition, the IAC carried out two follow-up audits (Business Continuity management; Handling of proposals for the harmonised classification and labelling process).

Based on the discussion of the Working Group on Audit¹, it was agreed that a clarification is needed in an IAC audit report on the Forum secretariat concerning the exclusive responsibility of Member States for enforcement.

The Management Board took note of the reports, thanked its Working Group for the follow-up and welcomed the outcome of the audits and the actions taken by ECHA in response.

b) Report from the Working Group on audit & mandates of its members

The Chair of the Working Group on audit presented a general overview of the Group's activities and findings since the December 2013 meeting.

Apart from the preparation of the Management Board opinion on the final accounts and the assessment of the annual reports of IAS and IAC, the Working Group dealt during a meeting on 16 June with audits undertaken in 2014, International Internal audit standards and modifications of its Terms of Reference.

Audits conducted by the IAC in 2014 concerned Document and record management and the Confidentiality claim verification process.

¹ In December 2013.

As regards the compliance with international audit standards, the new ECHA Financial Regulation states that IAC shall perform its duties in compliance with the relevant international standards. This involves that external assessments (to verify IAC's compliance with IIA standards) must be conducted at least once every five years. The current plan for implementing this requirement is that external assessment will be procured in 2015, following the ISO certification in autumn 2014 of which the IAC activity is part of and an IAC self-assessment by October 2014.

Following a request from the Management Board in the March 2014 meeting, the Working Group recommended modifications to the Terms of Reference of the Audit Working Group. A proposal will be put forward for adoption in September. It will foresee Commission representative and MB chair as members by default. Furthermore, the membership may be renewable, not only once. Members whose mandate expired in June could be newly nominated under revised terms. The Working Group also recommended that the overall composition of Working Groups, the duration of mandates, Chairmanships etc., should be confirmed once a year by the Management Board. This could happen in the December meeting when the Secretariat usually presents an overview of the Working Groups for information.

The Management Board took note of the information and welcomed the recommendations of the Working Group regarding revised Terms of Reference.

10. Appointment of Committee members (MB/22/2014)

The Board members appointed five new nominees for RAC and SEAC and renewed the three-year terms of six RAC² or SEAC³ members⁴. The names of the Committee members will be published on the ECHA website together with their declarations of interest. The Secretariat confirmed that all (re)nominating Member States have done their nominations in accordance with the eligibility criteria adopted by the Management Board at its 31st meeting of September 2013.

11. Multi-annual IT planning (MB/23/2014)

The Management Board took note of key components of the priorities and challenges of the multi-annual IT planning as well as the impact on resources of the IT multi-annual perspective for 2014 to 2016. The update presented by the Director of Information Systems referred to the IT multi-annual perspective (2012-2015) presented to the 24th Management Board meeting in December 2011, updated with the targets achieved by ECHA during the past years.

It was noted that compared to the 2011 IT multi-annual perspective, ECHA is on track to deliver the intended programme of renovation of its IT systems. An important part of the IT programme was represented by the development of the two new submission systems operating the Biocidal Products Regulation and the Prior Informed Consent Regulation. The Director of Information Systems explained that the IT strategy of ECHA will represent a turning point in all IT areas in 2016. Therefore, it is planned that a new update of the document to be released in that year. It was, furthermore, highlighted that a diversification of income streams for IT based services and business ideas will be considered by the Agency. The new generation of IT systems as well as IUCLID 6 have a potential for supporting the delivery of payable services to third parties (e.g. data services and software subscriptions).

² With this (re)appointments, RAC will have 44 members.

³ With this (re)appointments, SEAC will have 32 members.

⁴ Details in Section III of these minutes.

Board members remarked the impressive work done by the Agency in the IT area and thanked for the clarity and usefulness of the presentation. The document gave a sizeable account of the core role played by IT to enable the business operations of the Agency, supporting the performance of the regulatory tasks and improving the usability of data for citizens. The report was found comprehensive and a good base for discussion also for the work programmes, although some requests for additions were made. A Commission representative requested in particular additional information on the amount of capitalised value of IT, asking to be provided with the historic figures in order to oversee the summary of the investment in software services up to 2013.

Some remarks were made in relation to two specific projects, the eChem Portal and the testing phase for a secure online collaboration tool used by ECHA. As regards to the eChemPortal application, it was noted that the project is co-managed by OECD⁵ and ECHA and that ECHA is one of the contributing sources. For promoting worldwide accessibility to data and to achieve maximum synergy with the Agency's own dissemination obligations, ECHA plays an active role in hosting the Portal. The current cooperation with the OECD and JRC⁶ is a win-win collaboration with a minimum of resources allocated (1 FTE⁷/year), from ECHA's part. As regards the future online collaboration tool, the Secretariat informed of the costs during the testing phase since June 2013, highlighting that similar costs are expected from the eventually identified option to cooperate with the Commission for developing a secure instance of the CIRCABC platform for ECHA.

The Management Board took note of the report and the Secretariat plan to present in 2014 a proposal on how to perform in future *ex-ante* evaluations of large scale IT projects.

12. Board of Appeal issues (MB/24-27/2014)

a) Report from the Chairman of the Board of Appeal (MB/24/2014)

The Management Board took note of the annual report on Board of Appeal (BoA) for the period June 2013 - June 2014. The Chairman of the BoA reported in particular on the latest appeal cases, findings from the BoA decisions and changes in the BoA team.

A total of 26 new appeals were lodged during the reporting period which constitutes an increase compared to previous periods. 15 final decisions were taken by the BoA on appeal cases, dismissing four appeals and upholding the same number. Seven cases were closed after withdrawals (1 rectified; 6 settled).

Since 2009, 45 appeals lodged of which six were upheld, six dismissed and four rectified by the Executive Director. 15 appeals were withdrawn and 14 cases are currently pending. The appeals concerned rejections and revocations of registrations (23), data sharing (3), dossier evaluations (14), administrative charges related to SME verification (2) and substance evaluations (3).

The Chairman concluded her report by emphasising that BoA is now a mature body within the Agency which delivers high quality decisions in a timely fashion. The appeal system as foreseen by REACH is working well and serves to clarify grey areas and uncover shortcomings that ECHA or the appellant encounter during REACH processes. The appeals system also provides an opportunity to improve in the context of a learning organisation. The Chairman also emphasised that BoA decisions are ECHA's decisions.

⁵ OECD - Organisation for Economic Cooperation and Development.

⁶ JRC - Joint Research Centre.

⁷ FTE - Full Time Equivalents.

The report reflecting the work done by the BoA was highly appreciated by the Board members. A general discussion followed on two specific cases: testing involving vertebrate animals and the language used by the Agency in communications with registrants. A Board member was keen to understand how ECHA follows-up on BoA decisions and asked for a specific follow-up report on the case related to the use of languages. Another Board member recommended publishing as much information as possible on the identity of the appellant or the chemical substance if confidentiality is requested in the context of appeal cases.

The Management Board took note of the report.

b) Report from the Working Group on the Board of Appeal (*MB/25/2014*)

The Working Group on the Board of Appeal (BoA) gave an overview of its activities, including the tasks of its members related to the performance appraisals of BoA members.

The Working Group highlighted the excellent cooperation with the Chairman and the other members of the Board of Appeal.

The Management Board took note of the information and thanked the Working Group for the work done.

c) Structure of the Board of Appeal and its Registry (*MB/26/2014*)

The Working Group on the Board of Appeal informed the other Management Board members that it had progressed with its deliberations concerning the relation between the Board of Appeal and its Registry. The Working Group presented its preliminary findings that, structurally, the dependence of the registry on the Executive Director was seen by the Group as presenting a risk at a minimum to the perception of independence of the BoA.

The Management Board also took note of issues identified by the Secretariat in relation to the proposal, highlighting, amongst others, legal, practical and resource constraints of the proposal, the measures already adopted guaranteeing the independence of the Registry, lack of any concrete problems and the satisfaction of stakeholders with the functioning of the current appeal system.

In a discussion, several Board members wished to understand the motivation for possible structural changes in the BoA, calling for prudence in making modification proposals to a system which delivers highly acknowledged outputs and for which no concrete problems have been identified. These members were reassured that the findings were of a general, long-term and systemic nature and that no concrete issues concerning the quality of the output or other aspects have been identified. The BoA Chairman added that the issue should not depend on the persons involved, pointing out that the main point is to set up for the future a structure for the Registry that ensures its independence from the Secretariat headed by the Executive Director.

A member of the Working Group on the Board of Appeal explained that the Commission is undertaking a review of the Rules of Procedures of the Board of Appeal. The issues identified will be considered in this context and feedback will be provided to the Management Board before revising the respective Commission Regulation in 2015. The member of the Working Group was of the view that this would allow the Working Group and the Secretariat to present a commonly agreed proposal to the Management Board for endorsement. The Commission would take account of the Management Board's view, without prejudice to its prerogatives in terms of proposing changes to the legislation.

The Management Board took note of the information provided. On the proposal of the Chair, and in the light of the workload, it was agreed to expand the Working Group on the BoA with three members to ease the burden⁸.

d) Selection procedure for the legally qualified member *(MB/27/2014)*

The Management Board mandated its Working Group on the Board of Appeal to prepare a proposal for the selection of (alternate and additional) legally qualified BoA member(s). A Commission list with qualified candidates is expected to be submitted shortly and appointment decisions are scheduled for the September Management Board meeting.

It was noted that the mandate of the Working Group covers the preparation of appointment decisions. In the past the Management Board had occasionally mandated another group of members with the pre-selection process in order to foster the objectivity of annual evaluations of the recruited individuals. An informed discussion established that there are no substantial issues which would prevent the Working Group from fulfilling this task as foreseen in the mandate.

e) Follow-up of Board of Appeal decisions

The Head of Unit Legal Affairs presented the role of the Secretariat in defending ECHA's position while ensuring legal quality and consistency during the decision-making, litigation and in answering to complaints and appeal decisions. This included a detailed account about measures taken by the Secretariat in response to appeal cases.

The triggers for changes to ECHA's working practices are continuous process development, stakeholder feedback, the identification of nonconformities, complaints, Court cases and appeals. With regard to appeals, the ECHA Secretariat confirmed that the BoA has an important influence on how ECHA operates. The BoA requires very high quality of decisions and communications and BoA proceedings feed to improving ECHA's processes and documentation.

The Management Board took note of the report.

13. Policy on managing potential Conflict of Interests *(MB/28/2014)*

a) Conflict of Interest Advisory Committee mandate

The Management Board renewed the mandate of Antonello Lapalorcia as Management Board representative in the Conflict of Interest Advisory Committee (CoIAC). It was noted that the Committee will publish an annual report with summaries of the advice provided.

The Conflict of Interest Advisory Committee is available to the Management Board, the Committees and the Forum as well as to the Executive Director for advice on matters related to (potential) conflicts of interest of individuals staffing the Agency or members of its bodies. It is composed of the Head of the Legal Affairs unit of the Agency, acting as Chair, of a person designated by the Management Board and of an outside expert designated by the Executive Director for its competence in the field of conflicts of interest. According to the Terms of Reference of the Committee, the two latter members have a mandate of two years, which is renewable.

⁸ DE, FR, RO

b) Update on policy implementation

The Management Board took note of the update on the policy on managing potential conflicts of interest, namely on circumstances where Committee members/rapporteurs take position on proposals prepared by the nominating Member State. Although ECHA Committee members are independent, concurrent employment in an MSCA can create a perception of conflict or potential conflict of interest as observed in the minutes of RAC and SEAC Committees. The Conflict of Interest Advisory Committee (CoIAC) had provided advice on this matter, clarifying that the need to declare an interest was identified in the first meetings of RAC and SEAC Committee. Thus, Committee members have to make such a declaration and they may participate in the discussion but not vote and cannot take a minority position. However, the Member's opinion may be recorded in the minutes. In case a member has been involved in the preparation of the dossier, the member would be excluded either from the final discussion or all discussions and not vote. CoIAC concluded that, although RAC and SEAC members are independent, concurrent employment in a Member State competent authority can create a perception of conflict or potential conflict of interest; the current practice cannot be viewed as breaching the existing legal and policy framework. CoIAC recommended to maintain the current practice, allowing meeting participation and recording in the minutes of different opinions should they be formalised.

The Board welcomed the progress made by the Secretariat and a concerned Member State representative in arriving at a common understanding on the practice developed in the Committees. It was noted that improved documentation can help with addressing the concerns raised by Member State representatives.

14. Information items without discussion

a) ECHA discharge 2012

The Management Board took note of the discharge resolution for 2012 which was submitted by the European Parliament on 16 April 2014.

b) The second report REACH Art. 117(3)

The Management Board took note of ECHA's second report on The Use of Alternatives to Testing on Animals for the REACH Regulation which had been published on 2 June. A Member State representative highlighted the importance of this report and announced that feedback will be submitted to ECHA.

15. Any other business

Progress with review of Biocidal Active Substances

The Secretariat informed on the progress made in the review of Biocidal Active Substances. Board members welcomed ECHA's work in this field and highlighted the importance of the Review Programme for public health and environment protection.

Update on building issues

The Secretariat informed that structured longer term actions have been initiated to allow the Management Board to take an informed decision in 2017 on the future premises of ECHA. Remaining in the current building is an option but requires careful analysis in terms of investment and future need of the Agency. The Board will receive updates on the developments. In this context, one Board member suggested renegotiating the current rent.

Update on contract agent reclassification and promotion rates

At the meeting of ECHA's Management Board in March 2014, certain issues were raised with respect to ECHA's proposed reclassification rates in its draft Multi-annual Staff Policy Plan 2015-2017 (MSPP). The Director of Resources noted that the issue was discussed with the Commission and that the Commission's services do not raise any incompliance issue with regard to the ECHA projections. They only underlined the general requirement that ECHA – like all EU agencies – should take account of the provisions of the EU Staff Regulations, without intending to indicate any compliance issue.

Further to Management Board discussions in September and December 2013, he further explained the Agency will undertake a reclassification exercise for contract agents in 2014, either using tailor-made rules agreed with the Commission for agencies or on the basis of general Commission implementing rules for agencies if already available before the next Board meeting.

Annual appraisal BoA and ED

The Chair confirmed receiving the final annual appraisal reports for the Executive Director and the members of the Board of Appeal. The Chair confirmed that there are no issues which need to be brought to the attention of the Management Board.

Next meeting and closure

The Chair reminded members that the next meeting of the Management Board will take place from 25 to 26 September 2014 in Helsinki.

After the meeting the Board received a briefing session on ECHA's Quality certification.

II. Documents submitted to the Management Board

Draft agenda	MB/A/02/2014 rev.01
Draft minutes of the 33 rd Management Board meeting	MB/M/01/2014
Quarterly report on ECHA's activities	MB/16/2014
Multi-annual Work Programme 2014-2018 (review of annexes)	MB/17/2014
Opinion of the final accounts for 2013	MB/18/2014
Budget 2014	
a. First amending budget	
b. Subsidy request for biocides	MB/19/2014
c. Budget transfers	
Update of the Decision on the transfer of fees to the Member States	MB/20/2014
Annual reports from the Internal Audit Capability and the Internal Audit Service	MB/21/2014
Appointment of Committee members	MB/22/2014
Multi-annual IT planning	MB/23/2014
Board of Appeal issues	
a) Report from the Chairman	MB/24/2014
b) Report from the MB Working Group	MB/25/2014
c) Structure of Board of Appeal and its Registry	MB/26/2014
d) Selection of legally qualified member	MB/27/2014
Conflict of Interest Advisory Committee mandate	MB/28/2014
ECHA discharge 2012	A(2014)2477
The second report under REACH on the Use of Alternatives to Testing on Animals (Art 117.(3))	ECHA-14-A-07-EN

III. Decision taken/Conclusions reached by the Management Board

The Management Board:

- Adopted the agenda for its 34th meeting (MB/A/02/2014).
- Approved the minutes of its 33rd meeting (MB/M/01/2014).
- Adopted updated Annexes to the Agency's Multi-annual Work Programme 2014-2018 as contained in the Annexes of document MB/17/2014 final of 18 June 2014.
- Adopted its opinion on the ECHA final accounts for 2013 and instructed the Executive Director to send the Final Annual Accounts, together with the opinion of the Management Board, to the European Parliament, the Council, the Commission and the Court of Auditors, by 1 July 2014 at the latest.
- Adopted a first amending budget for the year 2014 as contained in annex to the document MB/19/2014 final of 18 June 2014.
- Appointed new members for the Risk Assessment and Socio-Economic Analysis Committees and renewed the three-year terms of Committee members as follows:

New candidates for RAC membership:

Finland	SANTONEN Tiina
Ireland	MURRAY Brendan
Luxembourg	NEUMANN Michael

New candidates for SEAC membership:

Cyprus	NICOLAIDES Leandros
Spain	NARROS Adolfo

Candidates for renewal of RAC membership:

MS	RAC member	Expiry date of the current 3-year term
Denmark	Peter Hammer SØRENSEN	24 September 2014
Denmark	Frank JENSEN	24 September 2014
Latvia	Jolanta STASKO	14 December 2014

Candidates for renewal of SEAC membership:

MS	SEAC member	Expiry date of the current 3-year term
Germany	Karen THIELE	28 September 2014
Romania	Robert CSERGO	16 December 2014
Slovenia	Janez FURLAN	16 December 2014

- Mandated the Working Group on the Board of Appeal to act as preparatory group for the selection of legally qualified Board of Appeal members.

- Designated Alexander NIES, Catherine MIR and Luminița TÎRCHILĂ as members of the Working Group on the Board of Appeal⁹.
- Renewed the term of Mr Antonello LAPALORCIA as member for the Ethical Committee for a period of two years starting from the expiry date of the current mandate.

List of agreed follow-up actions:

- The Secretariat to draft revised Term of Reference of the Working Group on Audit
- The Secretariat to forward all ECHA press releases to Board members
- The Secretariat to prepare an overview on capitalised IT assets

⁹ Secretary note: It was not concluded that this decision would alter the composition of the group of three reporting officers.

IV. List of Attendees

Representatives of the Member States

Thomas JAKL	(AT)	
Jean-Roger DREZE	(BE)	
Boyko MALINOV	(BG)	
Anastassios YIANNAKI	(CY)	
Karel BLÁHA	(CZ)	
Alexander NIES	(DE)	
Henrik Søren LARSEN	(DK)	
Aive TELLING	(EE)	
Kassandra DIMITRIOU	(EL)	
Ana FRESNO RUIZ	(ES)	
Pirkko KIVELA	(FI)	
Catherine MIR	(FR)	
Krisztina Klára BIRÓ	(HU)	
Martin LYNCH	(IE)	
Antonello LAPALORCIA	(IT)	
Marija TERIOSINA	(LT)	
Paul RASQUE	(LU)	
Tristan CAMILLERI	(MT)	
Jan Karel KWISTHOUT	(NL)	
Edyta MIĘGOĆ	(PL)	
Ana PEREZ	(PT)	
Luminița TÎRCHILĂ	(RO)	
Nina CROMNIER	(SE)	Also acting as proxy of Anne LAPERROUZE
Simona FAJFAR	(SI)	
Edita NOVÁKOVÁ	(SK)	
David John Arwyn DAVIES	(UK)	

Representatives of the European Commission

Antti PELTOMÄKI	
Björn HANSEN	Also acting as proxy of Krzysztof MARUSZEWSKI

Independent persons appointed by the European Parliament

Christina RUDÉN	
-----------------	--

Representatives from interested parties appointed by the European Commission

Gertraud LAUBER	(Industrial)
Martin FÜHR	(Environment Health and Consumer NGOs)

Observers from EEA/EFTA countries and accession countries

Bojan VIDOVIC	(HR)
Sigurbjörg SAEMUNDSDOTTIR	(IS)
Henrik Hallgrim ERIKSEN	(NO)

Other Observers

Mehdi HOCINE	European Commission
Guy THIRAN	(Eurometaux) personne de confiance of Hubert MANDERY
Sharon McGUINNESS	Health and Safety Authority, Ireland

ECHA staff

Geert DANCET	(Executive Director)
Jukka MALM	(Deputy Executive Director/Director of Regulatory Affairs)
Andreas HERDINA	(Director of Cooperation)
Jack DE BRUIJN	(Director of Risk Management)
Christel MUSSET	(Director of Registration)
Leena YLÄ-MONONEN	(Director of Evaluation)
Luisa CONSOLINI	(Director of Information Systems)
William ROBERTS	(Director of Resources)
Lindsay JACKSON	(Head of Unit Communication)
Minna HEIKKILÄ	(Head of Unit, Legal Affairs)
Alain LEFEBVRE	(Head of Unit, Executive Office)
Frank BÜCHLER	(Executive Office)
Mervi MUSTAKALLIO	(Executive Office)
Viorica NAGHY	(Executive Office)
Evelina TODOROVA	(Executive Office)

(Staff attending specific agenda items)

Mercedes ORTUNO	(Chairman of the Board of Appeal)
Sari HAUKKA	(Registrar, Board of Appeal)
John WICKHAM	(Accounting Officer)
Shay O'MALLEY	(Head of Unit, HR)
Minna STRÖMBERG	(ECHA's Internal Audit Capability)
Wim DE COEN	(Head of Unit, E1, Evaluation unit)
Dimitrios KARGIANIOTIS	(Budget Officer)