



MB/M/01/2009 final

**Minutes of the Meeting of the Management Board
26/27 February 2009**

I. Documents submitted to the Management Board

Draft agenda	MB/A/01/2009 <u>rev.02</u>
Draft minutes	MB/M/05/2008
Preliminary draft budget for 2010 and establishment plan (accompanied by the preliminary work programme 2010)	MB/02/2009
Multi-annual staff policy plan	MB/03/2009
Establishment of a working group on planning and reporting	MB/04/2009
Appointments of the Board of Appeal (Chair and legally qualified member)	MB/05/2009
Procedure for adopting implementing rules	MB/06/2009
Implementing rules for the Staff Regulations	
- Rules endorsed at the meeting of April 2008	MB/07/2009
- Agency decision on setting up a Staff Committee	MB/08/2009
Revision of the rules of procedure of the Committees / Forum	MB/09/2009
Road map for implementing the CLP Regulation	MB/10/2009
Revision of the EC biocides legislation	MB/11/2009 <u>rev. 01</u>
Budget transfers	MB/12/2009
Community subsidy 2009 - payment appropriations	MB/13/2009
Hosting the OECD Global Portal	MB/14/2009
Exemptions in the interest of defense	MB/15/2009

II. Summary Record of the Proceedings

Introductory remarks

The Chair opened the meeting by welcoming the other Board Members to the first meeting in the new ECHA conference centre.

He then welcomed Mr PLATE and Mr FUEHR who had previously participated in Board meetings, but who were attending for the first time in the capacity of appointed Board Members.

Further to his letter inviting EEA-EFTA countries to nominate observers to the Management Board, the Chair announced that Ms Kirstin RANNVEIG-SNORADOTTIR had been nominated as an observer for Iceland.

The Chair introduced the other observers attending the meeting and informed the Board members of the proxy voting of which he had been notified (details are listed in Annex IV of these minutes).

1. Practical arrangements for the new conference centre

A staff member from ECHA's facility management team provided the Board with a short introduction concerning the practical aspects of holding meetings in the ECHA conference facilities.

It was clarified that, by default, meetings are digitally recorded. The Chair asked whether there were any objections to the meetings being recorded, provided that the records would be destroyed once the meeting minutes were finalised: no objections were raised.

2. Agenda (*MB/A/01/2009 rev.02*)

The Board took note of the draft agenda.

The Chair informed the Board that, on the request of the Commission, the agenda item on guidelines for retaining fee income on a multi-annual basis, requested at the last meeting, had been postponed - due to discussions on the reserve fund for ECHA still being ongoing. A representative of ECHA's parent DG (ENTR) gave a brief update on the issue.

On this basis, the agenda was adopted.

3. Declaration of specific interests

A Board Member declared a conflict of interest with regard to agenda item 8, Appointments to the Board of Appeal.

4. Minutes
(*MB/M/05/2008*)

The minutes of the meeting on 17/18 December 2008 were approved with minor clarifications (see corrigendum in the annex).

It was agreed that the deliberations on the report of the working group on the Board of Appeal should be shortened in the public version of the minutes.

5. Preliminary Draft Budget 2010 and establishment plan
(*MB/02/2009*)

The Executive Director was invited to present the agenda item, including the preliminary programme of work for 2010.

The preliminary draft budget (PDB) initiates the budgetary process; by approving the PDB, the Management Board supports the Agency's budgetary needs for 2010. The next step in the process is the preparation of the preliminary draft budget of the European Commission. The budget of the European agencies form part of the Commission's budget. The preliminary draft budget of the Commission is drawn up under the sole responsibility of the Commission and serves as the basis for the subsequent readings of the budgetary authority (European Parliament and the Council). The Executive Director expressed his confidence that the Commission will align itself with the proposal of the Management Board.

The total budget of ECHA for the financial year 2010 is estimated to amount to EUR 86,481,700. This represents an increase of 23% compared to 2009. The main reason for this increase relates to staffing costs whilst the operational expenditure mainly remains at the level of the previous year.

The sole source of revenue for 2010 is based on the fees paid by industry. While the fee revenue stemming from the registration deadline of 30 November 2010 is expected to amount to well over EUR 300 million, the bulk of the revenue is expected to be received only at the very end of 2010 and in the following year. The Executive Director therefore stressed that the Agency would nevertheless depend on a temporary Community subsidy in 2010 to ensure the continuity of operations. The reason for this would be that the Revised Financial Legislative Statement for REACH¹ could not have anticipated the need for this subsidy, as the co-legislator only decided at the end of the negotiations, in late 2006, to postpone the first registration deadline by 6 months. ECHA therefore requires a

¹ SEC(2006)924 REACH Revised Legislative Statement of 14 July 2006

bridging subsidy of EUR 45 million to cater for its cash-flow needs in 2010. Such a subsidy would be reimbursed to the Community in 2011.

Alongside the above-mentioned Financial Statement, ECHA is also requesting two extra staff members (one AD, one AST) for 2010, in order to cover additional tasks related to the CLP Regulation. The total number of new temporary staff positions for 2010 would thus rise to 104 (79 ADs, 25 ASTs).

The Executive Director highlighted that, due to high levels of uncertainty in the context of the 2010 resource planning, ECHA will, in the coming months, re-assess the baseline figures for its operational activities, which may impact upon the resources allocated and required; in such a case, the Management Board and the Agency's parent Directorate General would be immediately informed of any such alterations.

This was followed by an exchange of views.

With regard to the programme of work for 2010, discussions covered the implications of new tasks deriving from the new CLP-Regulation², the dissemination of information on hazard data, the preparedness of ECHA to handle a significant higher number of proposals for the identification of substances of very high concern (SVHC), and guidance on nanomaterials. Comments were also made on the indicators presented to measure the Agency's progress in achieving the objectives for 2010: for example, it was mentioned that the target of 100% agreement in the Agency's Member State Committee would be very challenging.

The Chair thanked the participants for their comments and their good preparation for the meeting; he then invited the Executive Director to respond to the points raised. In his intervention, the Executive Director welcomed the comments and pointed out that the purpose of the preliminary work programme presented at the meeting would be to justify the budgetary needs of ECHA for 2010. The final work programme for 2010 would be adopted in autumn 2009 and would take into account new developments over the year. He also clarified that potential tasks linked to the upcoming revision of the EC biocides legislation would not be part of the presented work programme or preliminary draft budget. However, work on the classification and labelling of active substances used in biocides would be done in 2009 as foreseen in the REACH and the CLP Regulations. It was also clarified that Guidance on nanomaterials could not be developed earlier than as foreseen in the Agency's multi-annual work programme, but that ECHA is taking actively part in the Commission's work on the issue and make available information to stakeholders as appropriate. Furthermore, it was explained that the publication of hazard data from the thus far relatively low number of registrations would start in 2009.

A Member State representative stressed his discontentment with the low number of proposals for the identification of substances of very high concern by Member States, explicitly including his own Member State. His government would therefore strive to

² Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances, which entered into force on 20 January 2009.

submit 7 proposals by May 2009 for inclusion into the first update of the candidate list; in subsequent years, 10 proposals per year would be foreseen. This announcement was welcomed by the meeting.

With regards to the preliminary draft budget for 2010, discussions centred on ECHA's need for a bridging subsidy; in addition, certain specific aspects were addressed by Members, such as the expenditure for IT systems.

On the request of the Chair, a representative of ECHA's parent Directorate General confirmed that the Commission agrees that there is a need for a bridging subsidy in 2010 and that it would be prepared to include a request in the Commission's PDB. He further noted that it is in the common interest of the Commission and the Member States that ECHA's operations are ensured in 2010, reiterating also that due to the late decision of the co-legislator to postpone the registration deadline by 6 months, the need for a subsidy could not have been anticipated in the Revised Legislative Financial Statement for REACH.

A Board Member representing a Member State stressed that whilst his government would fully understand the background context of the need for a temporary subsidy, he would nevertheless have to insist on an explicit commitment by ECHA that the subsidy will be re-paid in full. The Board Member also stressed that the granting of a temporary subsidy would be an exceptional event and that ECHA should only make use of the funds to the extent needed. It would eventually be his government's view that the funds should not be taken from the margin of heading 1a of the Community budget.

In response, the Executive Director confirmed that the temporary subsidy would be fully returned to the Communities budget, including any interest accrued. This was also confirmed by a representative of ECHA's parent Directorate General who explained that it would be too early to comment on the possible origin of the temporary funds for ECHA. It would, however, ultimately be up to the budgetary authority, and thus also the Member States, to decide on the subsidy and which resources are used for this purpose.

A Board Member appointed by the Commission to represent interested parties informed the other Members of a dinner with Commission President Barroso that had taken place the evening before the present meeting of the Management Board. The chemical industry had used the occasion to call on the Commission to ease the situation facing companies, in view of the current adverse economic circumstances. The Board Member therefore argued for an increased Community subsidy accompanied by reduced fees and phased payments over several years.

The Board approved the draft estimates for the Agency's expenditure and revenue and the establishment plan for the year 2010, including the demand for a reimbursable subsidy of EUR 45 million based on the preliminary programme of work for 2010.

Based on a proposal by the Chair, the Management Board agreed that ECHA should make it clear in the request to the Commission that:

- the temporary subsidy required for the financial year 2010 has the character of a loan rather than a regular Community subsidy,
- ECHA will return the funds received as soon as possible, and at the latest by mid-2011,
- the temporary subsidy is of an exceptional character, and
- ECHA will make use of these funds only to the extent needed.

The Chair also invited the Executive Director to inform the Board immediately of any changes in the baseline numbers for ECHA's operations which would justify a higher number of staff in 2010.

6. Multi-Annual Staff Policy Plan (MB/03/2009)

The Board heard Jef MAES, Director for Resources, who presented the draft multi-annual staff policy plan. This plan is a regularly updated planning tool required by ECHA's Financial Regulation. A draft had been presented to the Board at its last meeting in 2008 before being sent to the Commission for consultation. The document presented to the Board would address all the Commission's comments as outlined in the explanatory note MB/03/2009.

In the discussion which followed, the Staff Policy plan was welcomed as a good strategic document.

Several Board Members asked if the foreseen increase of IT staff in 2010 would be sufficient to ensure that work on the IT systems would be completed in time for the first registration deadline. It was also noted by the Board that the workload implications for staff should be closely monitored by the ECHA management. In this context, clarification was sought on what health and safety measures ECHA intended to take to ensure the wellbeing of its employees - in view of the difficult conditions that had been experienced.

Remarks were also made on the ratio of operational staff to administrative staff. Whilst it was positively acknowledged that ECHA plans to recruit more staff with lower entry grades in future and a higher number of assistants, it was noted that the proportion of operational staff would be lower than originally foreseen by the Commission.

In response to the comments made, the Executive Director explained that the main work on the IT systems would occur on the financial commitment made in 2009. For 2010 and subsequent years, it is expected that the necessary staff numbers would remain on the same level. With regard to the workload for ECHA staff and its implications, the Executive Director confirmed that the peak workloads linked to entry into operation and pre-registration put especially high demands on many staff members. Health and Safety aspects would be looked into and discussed with the Staff Committee. The Director for Resources would be in charge of the issue.

With regards to the proportion of operational staff, the Executive Director emphasised that the estimates of 2006 did not prove 100% correct in all cases. For example, the needs for IT staff had been underestimated, as a second back-up person is needed for all functions, to ensure the continuous operation of systems. It was explained that the ratio would be set at the level of comparable agencies and that administrative resources are needed to cover all functions which the Commission or national ministries normally centralise. The Executive Director offered to send a comparison of the estimates made in 2006 with the figures from the 2010-2012 Staff Policy Plan to the Board Members.

The Board adopted the multi-annual staff policy plan 2010-2012.

7. Establishment of a working group on planning and reporting
(MB/04/2009)

The floor was given to the Executive Director to present the meeting document. He emphasised that the discussion on the preliminary work programme for 2010 would confirm the need to have some of the Board focused in more detail on ECHA's planning and reporting obligations.

As part of its institutional duties, the Management Board is required by the REACH Regulation and ECHA's Financial Regulation to adopt a series of documents in relation to the planning of and the reporting on the Agencies activities each year (e.g. work programme, multi-annual work programme, general report etc.). In order to facilitate the involvement of the Board in the preparation of these documents, the Secretariat proposed the establishment of a standing working group on planning and reporting. This group would make recommendations to the Board with respect to decisions to be taken, including the issuance of an opinion, when applicable.

The Board welcomed the proposal and decided to establish a working group on planning and reporting and nominated the following, as members of the working group:

1. Mr. Martin Lynch, IE (Chair)
2. Ms. Ethel Forsberg, SE
3. Ms. Pirkko Kivela, FI
4. Mr. Alexander Nies, DE
5. Mr. Heinz Zourek, COM

8. Appointments of the Board of Appeal
(MB/05/2009)

The deliberations took place *in camera*. The Board member who had declared a conflict of interest left the meeting room.

The floor was given to the Vice-Chair who had taken over the role as Chair of the Preparatory Group in charge of assessing the candidates. He presented the Group's findings and the recommendations contained in the Group's report to the Management Board (MB/05/2009). He expressed appreciation for the fact that the Commission pre-selection process had resulted in a short list presenting a real choice for the Board with respect to selection of the Chair and the legally qualified member of the Board of Appeal.

The Chair thanked the Preparatory Group for its work and clear recommendations, and explained the voting procedure. He suggested proceeding in the same way as for previous appointments, i.e. with an *en bloc* vote on the basis of the recommendation of the working group. This was agreed.

Two Board Members without voting rights were designated as tellers.

The vote took place by secret ballot and the recommendations of the Preparatory Group were approved in line with the requirements of Article 82 of the REACH Regulation.

The Management Board decided to appoint Ms Mercedes ORTUÑO as Chair and Ms Mia Katriina PAKARINEN as legally qualified member of the Board of Appeal, and authorised the Executive Director to undertake, in agreement with the Management Board Chair, the necessary steps to inform the candidates of the decision taken and to start the employment as temporary agents under the Staff Regulations.

The Board also agreed that if one of the candidates declines the appointment, the candidate placed next on the respective list of merits as contained in the report of the Preparatory Group (MB/05/2009) shall be deemed appointed by the Board.

It was further agreed that the Preparatory Group for the Board of Appeal proceeds with the assessment of the remaining candidates for the positions of the Board of Appeal, in the same manner as the present one.

9. Procedure for adopting implementing rules (MB/06/2009)

The meeting document was presented by Jef MAES, Director for Resources, who introduced a proposal by the Secretariat concerning the procedure for adopting implementing rules that require the formal agreement of the Commission.

The setting up of an agency requires the implementation of a high number of such rules which are regularly based on templates used by all agencies. Instead of deciding on draft rules before sending them to the Commission for agreement, and subsequently adopting the agreed texts at a second Board meeting once the agreement is received, it was proposed that in future the rules should be adopted subject to the Commission's agreement. When formalising the rules, for practical reasons the Chair should be allowed to accept minor technical or linguistic changes, as far as they would not alter the content of the decision.

The Board agreed to the proposal subject to a clarification with regard to the limited discretion of the Chair to accept minor technical and linguistic modifications and the scope of the procedure, which should only apply to implementing rules for the Staff Regulations or the Financial Regulation.

10. Implementing rules for the Staff Regulations
(*MB/07/2009 and MB/08/2009*)

The Board heard the Director for Resources, who presented the meeting documents.

On invitation by the Chair, and in agreement with the Executive Director, an observer from ECHA's Staff Committee attended the agenda item.

The Management Board adopted a package of four implementing rules for the Staff Regulations contained in document MB/07/2009, that it had previously endorsed at its meeting of April 2008 and that had subsequently been sent to the Commission for agreement. After the agreement had been received, ECHA had also consulted its Staff Committee.

Making use of the newly agreed procedure for adopting such rules (agenda item 9) the Board also adopted a decision on setting up a Staff Committee, as contained in document MB/08/2009, subject to the agreement of the Commission.

11. Rules of Procedure of the Committees and the Forum
(*MB/09/2009*)

Andreas HERDINA, Director for Cooperation, presented the first revision of the rules of procedure of the Agency's Committees and the Forum.

The changes proposed mainly concern the following areas:

- Changes due to the entry into force of the EEA-EFTA Agreement on REACH,
- Changes due to the entry into force of the CLP Regulation,
- Consideration of other developments, such as amendments regarding the code of conduct for stakeholder observers or the possibility for shortening the period for written procedures,
- Revisions aimed at higher consistency between the different Rules of Procedures.

The Management Board adopted the revised rules of procedure as contained in document MB/09/2009.

12. Community subsidy – payment appropriations³
(MB/13/2009)

The Director for Resources informed Board Members that following the approval, at the December 2008 Board meeting, of ECHA's budget for 2009 - conditional upon the adoption of the final budget envelope by the budgetary authority - it became known in January 2009 that three fee-earning Agencies, namely ECHA, EMEA⁴ and EASA⁵, had been subject to cuts in payment appropriations concerning their Community subsidy amounts. Accordingly, the European Commission informed ECHA (letter annexed to document MB/13/2009) that while the Budgetary Authority had authorised a Community subsidy of the expected amount of EUR 64,529,000 in commitment appropriations, it had only authorized an amount of EUR 62,970,000 in payment appropriations. This reduction by EUR 1,559,000 in payment appropriations applies to the transferable subsidy allocated for Title 3 – Operating expenditure.

He informed the Board that deliberations on how to best deal with the situation were continuing with the parent DG and DG Budget. At the moment, an amending budget would not be considered necessary. However, as a precautionary measure, ECHA will freeze an equivalent amount on the translation budget line. The Board would be kept informed of the developments.

The representative of the parent DG confirmed its intention to request a draft amending budget to rectify the amount of payments appropriations. The Board took note of this information.

13. Report of the Executive Director

The Board received a report by the Executive Director on the state of REACH operations as compared to the 2009 Work Programme.

The report highlighted ECHA's experiences with pre-registration, registration and the current status and developments with regard to IT tools for operations, since the last Board meeting of December 2008.

Since 5 January, first-time manufacturers and importers could submit late pre-registrations via REACH-IT, and downstream users could notify their interest in substances that are not on the pre-registration list. For pre-registrants, the next important step was SIEF formation. In order to clarify the role of the SIEF Formation Facilitator and the lead registrant, ECHA published an information leaflet on 12 February 2009. With regards to REACH-IT, a number of improvements have been made throughout the

³ These minutes reflect the agenda items in the order they were ultimately dealt with at the meeting on 27 February 2009.

⁴ European Medicines Agency, London

⁵ European Air Safety Agency, Cologne

past months, and a new release, scheduled for the end of March, is expected to add further improvements and new functionalities.

A status report on evaluation, authorisation and restrictions was also provided by the Executive Director. He noted that a first draft recommendation for priority substances for inclusion in Annex XIV - containing 7 substances - was published on ECHA's website on 14 January 2009 and interested parties were invited to submit their comments by 14 April. On 21-22 January, ECHA held a workshop to discuss policy and practical issues related to the authorisation procedure, during which agreement on a number of conclusions and recommendations could be reached (e.g. on the aim and role of the candidate list and Annex XIV, and ways for improvement for the practical implementation of authorisations and restrictions). Board Members were also reminded that Title VIII of the REACH Regulation on restrictions starts to apply from 1 June 2009.

Concerning Classification and Labelling, Members were informed that on 23 February ECHA opened a first public consultation on a proposal to harmonise the classification and labelling of two chemical substances (Epoxyconazole and Diantimony trioxide), proposed by Sweden.

The Executive Director informed Board Members about the outcome of recent meetings of the Risk Assessment Committee and the Committee for Socio-economic Analysis, and the content of the forthcoming meetings of the Member State Committee and the Forum in April. In addition, he gave an account of the state of play of ECHA's helpdesk and guidance activities, as well as ECHA's international activities.

The formal opening of ECHA's conference centre by Commission Vice President Margot Wallström and MEP Guido Sacconi will take place on 3 April in the presence of many VIPs. A panel discussion on "How can the new Chemicals Legislation improve human health and the environment" will be held during the event, with the participation of 100 university students.

A second ECHA stakeholder's day is planned for 27 May 2009.

The presentation was followed by a discussion focusing, in particular, on REACH-IT, ECHA's experience with pre-registration, and (pre)SIEFS.

Several Board Members expressed their continuing concern with the reduced response time or temporary unavailability of REACH-IT. It was generally hoped that the situation would significantly improve with the forthcoming release. The Executive Director assured Members that the system was presently working well, and that prior to the new release, even more intensive testing than for previous versions had been and would be carried out, to ensure stability of the system. He also informed Members that REACH-IT will in future be available for the work of the Committees during their meetings, which was appreciated.

A few comments were made about the current state and level of correctness of the pre-registration list. Anthony WILSON, Head of Unit C.2 (Registration), gave an overview of

the current status of the list and ECHA's efforts to compile a final list. For example, substances without EINECS numbers, but with CAS numbers, were assigned the correct CAS chemical name; those without EINECS or CAS numbers were assigned CAS numbers where it was possible to do so. However, at this stage, it could already be expected that, while the final list will be better defined, it will still remain an industry list containing a number of un-identified substances and may not clearly indicate which substances will be registered. This conclusion was supported by the report of one Member who stated that investigations of their national enforcement authorities revealed that a number of pre-registrations were submitted by companies that, due to the nature of their business, were unlikely to register the substances concerned. However, the pre-registrations themselves had to be considered valid.

Board Members also expressed their concern with the functioning of pre-SIEFS, possibilities of abuse of the SIEF Formation Facilitator role, and the relatively slow progress made with SIEF formation. A Board Member, appointed by the Commission as representative of interested parties, reported that progress was hampered on the one hand by the high number of pre-registrants in pre-SIEFs, and on the other, by the fact that pre-SIEFs were seen as a business opportunity by a number of pre-registrants. As a consequence, data sharing and preparations for joint submissions would tend to move away from SIEF to consortia level. It was suggested that ECHA and industry analyse the current situation and try to develop solutions to the problems identified. The ED recognized the importance of well-functioning SIEFs, and reminded Board Members that, as a first initiative, ECHA had published a News Alert to remind industry about the purpose of pre-SIEFs and SIEFS, and the role of the SIEF Formation Facilitator. He welcomed the idea of a meeting between stakeholders and ECHA on the topic of SIEF formation. Overall, it was the goal of ECHA and the Commission to make REACH a success.

Other issues discussed were the impact of the global economic crisis on chemical companies, the usefulness of the pre-registration list for downstream users, and nanomaterials or pre-registrations for substances that have been restricted.

The Chair thanked the ED for his comprehensive report, and Board Members expressed their appreciation for the overview given. It was agreed that in future a report on ECHA's activities by the ED shall be a regular part of the agenda for Management Board meetings. For future meetings, a background document for this agenda point will also be provided before the meeting. It was requested that at a forthcoming meeting, a general discussion about the future role and responsibilities of ECHA shall be held, in recognition that a gradual enlargement of the Agency's activities seems to be taking place (e.g. with the entering into force of the CLP Regulation and the discussion on biocides).

14. Road Map for the implementation of the CLP Regulation
(MB/10/2009)

The Board heard Jukka MALM, Director for Assessment, who gave an overview of the new tasks for ECHA deriving from the CLP Regulation, which entered into force on 20 January 2009⁶.

The provisions of Title XI on classification and labelling of the REACH Regulation is replaced by the new Regulation, and consequently this title is deleted in REACH. Moreover, the CLP Regulation introduces some new tasks for ECHA in addition to those assigned by REACH.

The report from the Director for Assessment included the resource needs identified by ECHA for fulfilling the new tasks, and the tasks related to classification and labelling in general.

In the subsequent exchange of views, a representative of the Commission stressed that all activities in 2009 would have to be covered by the resources available, as any amendment to the budget 2009 would be unlikely. For 2010, the budget and staffing needs would already be included into the PDB, as approved earlier at the meeting (agenda item 5).

It was acknowledged by Board Members that the assignment of new tasks to ECHA shows the appreciation of the co-legislator and the Commission for the quality of the work done by the Agency since June 2007. At the same time it was felt that the Management Board has to ensure foremost that the resources available focus on the implementation of REACH.

Following a discussion at the last Board meeting, the issue of translating Annex VI of the CLP Regulation into the languages of the Member States that had joined the EU on 1 May 2004 was addressed by a Board Member. A representative of the Commission clarified in this regard that not all new Member States would still need to translate the information contained in this Annex. The obligation would have been part of the accession agreements.

The Board welcomed the Roadmap for the implementation of the CLP Regulation presented by the Secretariat.

⁶ Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures. The CLP Regulation repeals Directive 67/548/EEC and Directive 1999/45/EC with effect from 1 June 2015.

15. Revision of the EC biocides legislation
(*MB/11/2009 rev.01*)

The Chair invited a representative of the Commission to give an outline of the current situation regarding preparations for a legislative proposal for the revision of the EC biocides legislation.

She clarified that as yet, no legislative proposal had been adopted, and any detailed discussion on the topic was therefore premature. Evidently, potential new tasks for ECHA resulting from a revision of the current legislation could not be managed with the resources made available for the implementation of REACH. The Commission was also well aware of the need to organise thoroughly the preparatory work, well ahead of the entry into force of any new legislation (which could be around the year 2013).

Following this, the Director for Assessment presented the meeting document MB/11/2009. He highlighted that at the moment, the resources needed for potential new tasks would be the main interest for ECHA.

The Chair asked to be informed of the role of the Management Board in the procedure and the legal basis for ECHA to get involved in the preparatory work.

In the subsequent discussions, some Board Members saw a high level of compatibility of the tasks, and many links and synergies with the implementation of REACH. One Board Member, however, pointed out that a good balance has to be found between a national and a centralised procedure for the evaluation and authorisation of biocidal substances and products.

The Chair summarised the discussions by emphasising that the Management Board would be the right forum for discussing ECHA's involvement in the preparation of the new legislation. In principle, the Board would sympathise with the idea of ECHA being involved in biocide-related tasks, given the synergies with REACH. Any further discussion would, however, require the presentation of a Commission proposal. The Commission was asked to present such a proposal as soon as possible. It was also noted that ECHA would have to stay neutral in the discussions.

16. Budget transfers
(*MB/12/2009*)

The Director for Resources reported on budget transfers carried out under the remit of the Executive Director, since the last Board meeting.

The Management Board took note of the information provided.

17. Any Other Business

Hosting the OECD Global Portal

The Board took note of an informative note provided by the Secretariat on ECHA's intention to host the OECD Global Portal to Information on Chemical substances (eChemPortal), which is an internet gateway to information on the properties, hazards and risks of chemicals found in the environment, workplaces, and in products used daily. It is an integrated system owned by the OECD that allows users to simultaneously search multiple databases prepared for government chemical review programs around the world. The aim is to improve the worldwide availability of hazard data on chemicals. Information accessible via the portal includes *i.e.* hazard data sets and risk assessment reports.

During a short discussion, Board Members pointed to the importance of providing coherence with the information ECHA will disseminate in future via REACH-IT. It was further stressed that the hosting of the portal must not undermine any of the IT-Security measures put in place by ECHA, or involve any other risks.

The Executive Director clarified that the hosting of the Portal fits in ECHA's ICT-Infrastructure and that it was made clear to the OECD that REACH operations will always have priority. The resource implications would be limited and ECHA will reserve the right to review its involvement as appropriate.

Member State exemptions in the interest of defence

As requested at the previous Board meeting, an information note was made available on the exemption in the interest of defence foreseen in Article 2(3) of the REACH Regulation.

The note was welcomed by Members. It was proposed to put the topic on the agenda of the upcoming REACH CA meeting. The representatives of the Commission reacted positively to this proposal.

Discharge for ECHA 2007

The Chair informed the Board about recent developments in the European Parliament (EP).

As ECHA was not financially independent in 2007, it is not on the list of agencies subject to EP discharge 2007. The Committee for Environment, Public Health and Food Safety nevertheless discussed and adopted an opinion on the Agency's discharge for 2007. A copy was made available by the Secretariat via CIRCA. The EP Committee for budget control, which is the lead Committee for the discharge, confirmed however, that there will be no discharge for ECHA in 2007. The opinion of the Environmental Committee was adopted singularly, without link to an actual report.

Enforcement practice in the Netherlands

Noting that a message had been circulating in the media stating that the Dutch Customs Service would request registration numbers from importers of chemical substances or preparations, a representative of a Member State informed the Board that this was the result of a misunderstanding.

18. Next meeting and closure

The Chair reminded Members that the next meeting of the Management Board would be held in Helsinki on 23/24 April 2009 in the Agency's conference centre, meeting room "Margot Wallström".



III. Decisions taken/ Conclusions reached by the Management Board

The Management Board

- approved the minutes contained in document MB/M/05/2008. This is subject to the amendments indicated in the corrigendum attached to the present minutes, and with the proviso that the text on agenda item 10 of the meeting be shortened in the public version of the minutes.
- adopted the agenda as contained in MB/A/01/2009 rev.02.
- approved the draft estimates for expenditure and revenue for the year 2010, together with the establishment plan, as contained in document MB/02/2009, and instructed the Executive Director to forward the estimate with the establishment plan to the Commission by 31 March 2009.
- adopted the draft Multi-Annual Staff Policy Plan 2010-2012 as contained in the annex to document MB/03/2009 and instructed the Executive Director to forward the estimate with the establishment plan to the Commission by 31 March 2009.
- decided to establish a working group on planning and reporting and nominated as members of the working group:
 1. Mr. Martin Lynch, IE (Chair)
 2. Ms. Ethel Forsberg, SE
 3. Ms. Pirkko Kivela, FI
 4. Mr. Alexander Nies, DE
 5. Mr. Heinz Zourek, COM
- appointed Mercedes ORTUÑO as Chair and Mia Katriina PAKARINEN as legally qualified member of the Board of Appeal, and authorised the Executive Director to undertake, in agreement with the Chair of the Management Board, the necessary steps to inform the candidates of the decision taken and to start the employment as temporary agents under the Staff Regulations, and to determine the date on which the five-year period referred to in Article 90(1) of the REACH Regulation begins for the successful candidates.
- agreed that if one of the candidates for the positions at the Board of Appeal declines the appointment, the candidate placed next on the respective list of merits shall be deemed appointed by the Board.
- agreed that the Preparatory Group for the Board of Appeal proceeds with the assessment of the remaining candidates for the positions of the Board of Appeal, in the same manner as the present one.

- decided that the adoption of implementing rules of the staff and financial regulations for which a prior agreement of the Commission is legally required be based on the following procedure: upon the agreement of the Commission, the Chair is authorised to formalise the adoption of these implementing rules, which have previously been approved in draft, by the Management Board. For practical reasons, the Chair is granted strictly limited discretion to accept minor technical or linguistic changes proposed by the Commission provided that these do not alter the content of the Board's decision. Any other changes require a re-submission of the implementing rules to the Board, possibly by written procedure.
- adopted the implementing rules for the Staff Regulations as contained in document MB/07/2009.
- adopted the draft decision contained in document MB/08/2009 subject to the agreement of the Commission. Upon the agreement of the Commission, the Chair is authorised to formalise the adoption of this implementing rule. For practical reasons, the Chair is granted strictly limited discretion to accept minor technical or linguistic changes proposed by the Commission provided that these do not alter the content of the Board's decision.
- approved the revised rules of procedure of the Committee for Risk Assessment, Committee for Socio-economic Analysis and the Member State Committee, as laid down in Annexes 1, 2 and 3 to document MB/09/2009.
- adopted the revised rules of procedure of the Forum for Exchange of Information on Enforcement as laid down in Annex 4 to document MB/09/2009.

IV. List of Attendees

Representatives of the Member States

Maria ALAJÕE (EE)
Aurelija BAJORAITIENÉ (LT)
Francis E. FARRUGIA (MT)
Ethel FORSBERG (SE)
Ana FRESNO RUIZ (ES) also acting as proxy of Ekaterina GECHEVA (BG)
Claude GEIMER (LU)
Thomas JAKL (AT) also acting as proxy of Zoltán ADAMIS (HU)
Katarzyna KITAJEWSKA (PL)
Pirkko KIVELA (FI)
Antonello LAPALORCIA (IT) also acting as proxy of Odile GAUTHIER (FR)
Marc LEEMANS (BE)
Martin LYNCH (IE)
Leandros NICOLAIDES (CY) also acting as proxy of Maria-Miranda
XEPAPADKI- TOMARA (EL)
Alexander NIES (DE) also acting as proxy of Marta CIRAJ (SI)
Edita NOVÁKOVÁ (SK) also acting as proxy of Karel BLAHA (CZ)
Per NYLYKKE (DK)
Teodor OGNEAN (RO)
Armand PLATE (LV)
John ROBERTS (UK)
Fernanda SANTIAGO (PT)
Arnoldus VAN DER WIELEN (NL) also acting as proxy of Alexander DE ROO (EP)

Representatives of the Commission

Elke ANKLAM also acting as proxy of Heinz ZOUREK and Grant LAWRENCE

Individuals from interested parties (appointed by the Commission)

Alain PERROY (CEFIC)
Tony MUSU (ETUC)
Martin FUEHR (University of Darmstadt)

Observers from EEA-EFTA countries

Anne Beate TANGEN (NO)

Other Observers

Veneta VLADIMIROVA on behalf of Ekaterina GECHEVA-ZAHARIEVA (BG)
Josef HASA on behalf of Karel BLAHA (CZ)
Philippe CHEMIN on behalf of Odile GAUTHIER (FR)
Gwenole COZIGOU on behalf of Heinz ZOUREK (COM)
Astrid SCHOMAKER on behalf of David Grant LAWRENCE (COM)
Graham WILLMOTT (COM)
Mario BECCIO (expert accompanying Mr. LAPALORCIA)

ECHA staff

Geert DANCET (Executive Director)

Andreas HERDINA (Director of Cooperation)
Jukka MALM (Director of Assessment)
Jef MAES (Director of Resources)
Antony WILSON (Head of Registration Unit)

Ana-Liisa SUNDQUIST (Chair of the Member State Committee)
Minna HEIKKILÄ (Senior Legal Advisor)
Markku JUNKKARI (Senior Organisational Advisor)
Derek KNIGHT (Senior Scientific Advisor)
Leena YLÄ-MONONEN (Head of Committees Unit) for agenda item 11
Finn PEDERSEN (Head of Classification Unit) for agenda item 13
Lindsay JACKSON (Head of Communication and REACH training Unit)

Mirco BUENNING (Chair of the Staff Committee) for agenda item 10
Hannu BRAUNSCHWEILER (Senior Scientific Officer) for agenda item 14
Alain LEFEBRVE (Head of Unit, Executive Office)
Frank BÜCHLER (Legal Officer, Executive Office)
Andrea IBER (Legal Officer, Executive Office)
Mark PERERA (Management Assistant, Executive Office)

Annex

Corrigendum to Document: MB/M/05/2008

(Agreed at the Management Board meeting on 26 February 2009)

**Minutes of the Meeting of ECHA's Management Board
held on
17/18 December 2008**

13. Amending the Guide for Reimbursement

[...] [4th paragraph]

“In the following exchange of views, many Members representing Members States, interested parties and an independent person appointed by the European Parliament supported an equal reimbursement of persons invited to meetings and highlighted the importance of stakeholder representation. ***In particular a Board Member appointed by the Commission to represent workers’ interests stressed that the contributions from stakeholder organisations are an added-value to ECHA’s meetings and their presence as observers is necessary to ensure a degree of transparency in the Agency’s work.***”