



MB/M/04/2009 final

**Minutes of the Meeting of the Management Board
29/30 September 2009**

I. Documents submitted to the Management Board

Draft agenda	<i>(MB/A/04/2009 rev.01)</i>
Draft minutes	<i>(MB/M/03/2009)</i>
REACH-IT information security policy	<i>(MB/55/2009)</i>
Work programme 2010	<i>(MB/56/2009)</i>
“International Activities” Work Plan 2010	<i>(MB/57/2009)</i>
Appointment of the alternate Chair(s) of the Board of Appeal	<i>(MB/RD/04/2009)</i>
Probationary period report of the Chair and the legally qualified member of the Board of Appeal	<i>(MB/RD/05/2009)</i>
Agency need for additional and more secure office space	<i>(MB/58/2009)</i> <i>(MB/RD/06/2009)</i> <i>(MB/RD/07/2009)</i>
Amendments to the Guide for Reimbursement of travel, hotel and subsistence expenses (MB/78/2008)	<i>(MB/59/2009)</i>
Amendment to the Board’s Rules of Procedure (MB/02/2007)	<i>(MB/60/2009)</i>
Report from the Executive Director	<i>(MB/62/2009)</i>
Organisational changes within ECHA	<i>(MB/63/2009)</i>
Status report on the formation of SIEFs, including the specific situation of SMEs	<i>(MB/64/2009)</i>
Update on the dissemination of public information on chemical substances	<i>(MB/65/2009)</i>
Information on ECHA’s current practice with regard to publishing translations	<i>(MB/66/2009)</i>
Budget implementation 2009 (correction of payment appropriation/ budget transfers)	<i>(MB/67/2009)</i>

II. Summary Record of the Proceedings

Introductory remarks

The Chair opened the meeting by welcoming the other Board Members.

He announced that the Council has formally appointed Ms Catherine MIR (FR) as Board Member in place of Ms Odile GAUTHIER, and Mr Jan Karel KWISTHOUT (NL) in place of Mr Arnoldus VAN DER WIELEN.

The Board was also informed that the two independent persons appointed by the European Parliament have resigned from their positions as Members of the Management Board. The Secretariat of the responsible Parliament Committee has initiated the replacement procedure and a decision is expected before the next Board meeting.

The Chair introduced the observers attending the meeting and informed Board Members about the proxy votes of which he had been notified (details are listed in section IV of these minutes).

1. Agenda (*MB/A/04/2009 rev.01*)

The Chair clarified that the foreseen appointment of Committee members would ultimately not be needed given that the Secretariat had not received any nominations from Member States.

He indicated that several room documents had been made available for the meeting.

On this basis, the agenda was adopted.

2. Declaration of specific interests

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

3. Minutes (*MB/M/03/2009*)

The minutes of the meeting on 25/26 June 2009 were approved with one modification (see corrigendum in the annex).

4. Update on the budgetary procedure 2010

The Executive Director informed the Board that on 2 September 2009 the European Parliament Committee for Environment, Public Health and Food Safety adopted its opinion

on title III of the budget of the European Union for 2010, which includes the budget lines designated for the financing of ECHA. With a broad majority, the Committee voted in favour of granting a bridging subsidy of € 38,7m and 102 new posts to ECHA. This is less than the Management Board's original request from February 2009, but more than foreseen in the Commission's preliminary draft budget. Overall, the vote in the Committee responsible for ECHA was an important step in the procedure, and the amount foreseen will be a solid basis for ensuring the functioning of ECHA in 2010.

The Executive Director expressed his gratitude to all Board Members for the broad support and the interventions made. He and the Chair stressed that the further budgetary procedure would still need thorough follow-up in the European Parliament and the Council, and that collective efforts should not be diminished.

5. REACH-IT information security policy
(MB/55/2009)

The Executive Director briefed the Management Board on developments in relation to the granting of access to REACH-IT for Member State Competent Authorities and Commission services. He also informed the Board about a procedure that the Secretariat has put in place for the purpose of referring a request for public access to documents from a Member State authority to ECHA, or for consulting the Agency on such requests.

The Executive Director welcomed, in particular, the fact that the Commission services have provided advice on certain legal aspects of the matter; a corresponding note had been distributed to the Board shortly before the meeting. He explained that the Commission services have also drafted an amended declaration of commitment which reflects the new findings. As the Secretariat would see no need for further refinement, the Executive Director proposed that the Board consider endorsing the declaration as presented.

The Chair thanked the Executive Director and concluded that the approach taken by the Management Board at its last meeting had been proven to be prudent. Many other Board Members expressed their appreciation for the clarification provided by the Commission and welcomed the modifications proposed to the declaration.

It was generally acknowledged that the new draft declaration would provide sufficient flexibility for Member State authorities to take into account national requirements while ensuring a high level of protection of confidential information. However, as the Commission's advice was received at short notice before the meeting, Board Members provided initial feedback and suggested various proposals for amendments. They also expressed the wish to receive additional time to reflect on the proposal before formally expressing their opinion.

It was thus agreed that the Secretariat would circulate a revised draft of the declaration and the corresponding standard security requirements after the meeting to the Board, taking account of the various comments made. Board Members will then have two weeks to comment, before both a new declaration and corresponding standard security requirements, shall be submitted for adoption by written procedure.

In addition, it was agreed that divergences between Member States shall be avoided. Therefore, all authorities should sign the same version of the declaration and any agreement already signed with ECHA prior to the adoption of the final declaration would need to be updated.

6. Work programme 2010
(*MB/56/2009*)

The Executive Director presented the Agency's draft work programme 2010, which incorporated most of the suggestions made by the Board Members. In his presentation, he focused, in particular, on the uncertainties with regard to the number of dossier submissions expected, and the Secretariat's activities related to contingency planning for situations in which the workload exceeds the original estimates. He announced that a comprehensive overview of these contingency plans would be produced for the next meeting of the Management Board.

Overall, the Executive Director emphasised that 2010 will be crucial for the further implementation of REACH and the tasks for ECHA are going to be very demanding. Similar to previous years, the Agency will have to be prepared to show a high degree of flexibility in order to carry out its mission.

The Chair thanked the Executive Director and the Secretariat, and expressed the Board's appreciation for the approach taken when developing the programme. He acknowledged that during a written consultation in July and August 2009, many Board Members had provided valuable and constructive contributions.

He expressed particular gratitude to the Management Board's working group on planning and reporting, and invited its chairman, Mr. LYNCH, to present the findings of the group. The working group had prepared the final draft together with the Secretariat at a meeting in early September.

Mr LYNCH outlined the legal background and purpose of the work programme and the working group's involvement in its drafting. He considered the revised draft presented to the Board as comprehensive and of high quality, and consequently recommended that it be adopted.

Many other Board Members congratulated the Secretariat for having produced a very balanced document, based on a solid evaluation of tasks, risks and clear objectives. It was noted that the document will be particularly helpful for staff in the execution of the demanding tasks foreseen over the year ahead. As 2010 is expected to be a very challenging year for the Agency, with important deadlines falling in this period, Board Members were particularly interested to learn more about the Agency's contingency plans for peak periods and to receive regular updates on the status of the IT-development. Other members showed interest in the Agency's communication strategy and offered to share relevant documents with the Board.

On request, the Executive Director made it clear that ECHA will require additional temporary staff and undertake part-time internal re-deployment during peaks in the submission of registration dossiers – irrespective of whether the baseline figures of the Commission are exceeded or not. Responding to another question from a Member State representative, he

stressed that ECHA is fully committed to repay in 2011 any Community subsidy received in 2010, assuming that sufficient fee income is available by the end of next year. The Agency would, however, have to acknowledge the risk that the fee income could be lower than estimated, even though this scenario is not likely to materialise.

A Board Member appointed by the Commission to represent interested parties pointed out that 2010 would be the first full year of REACH implementation and a reality check for the new system. He called on ECHA to collect systematically its experiences, and provide the Commission with an analysis for the refining of the legislation, during the scheduled five-year review.

Based on a proposal by a Member State representative, it was agreed that explicit reference would be made to ECHA's contribution to the UNEP-led SAICM¹ process and its objectives.

With regard to procedural aspects, Board Members noted that it would be desirable in future to receive detailed information as to how the comments on the draft programme are being taken into account by the Secretariat and the Board's working group.

The Management Board adopted the ECHA work programme for the year 2010.

7. Work Plan "International Activities" 2010 (MB/57/2009)

The Director of Cooperation presented the draft work plan on international activities for 2010. He reminded the Board that the planning in this area needs to be agreed with the Commission services in accordance with Article 77(2) (1) of the REACH Regulation.

As in 2009, ECHA will, in 2010, mainly be active in OECD-related work. Other areas of activity will include the framework of the Stockholm Convention on Persistent Organic Pollutants and the UNECE SC GHS². ECHA may also participate in Commission activities in relation to UNECE³ and SAICM.

One Board Member mentioned that he would appreciate the attendance of ECHA in the CSD⁴ review process. Another Board Member noted that the international activities of ECHA should also emphasise activities related to the enhancement of the competitiveness and the innovative potential of the European-based industry, which is one of the aims of the REACH Regulation. In response to this, the Director of Cooperation mentioned that ECHA's international activities focus on regulatory aspects of the management of risks from chemicals, whereas competitiveness issues were addressed through other Community and Commission policies. He also recalled that all Agency activities in the international field require a request from the Commission.

¹ Strategic Approach to International Chemicals Management of the United Nations Economic Commission for Europe

² Subcommittee of United Nations Economic Commission for Europe on the Globally Harmonised System for classification and labeling of chemical substances and mixtures

³ United Nations Economic Commission for Europe

⁴ UN Commission on Sustainable Development

In response to questions on the test guidelines for High Production Volume Chemicals (HPVCs), the Director of Assessment informed the Board that ECHA will present a document on testing strategies at its meeting in December 2009; this was welcomed by the Board.

The Management Board endorsed the work plan for international activities of ECHA for 2010.

8. Appointment of the alternate chair of the Board of Appeal
(*MB/RD/04/2009*)

Based on the recommendation of the Management Board's Preparatory Group on the Board of Appeal, which had assessed candidates from a Commission short list submitted in accordance with Article 89(3) of the REACH Regulation, the Management Board appointed Mr Andreas BARTOSCH as alternate chair of the Board of Appeal.

Noting that having only one alternate chair may be insufficient to ensure the smooth functioning of the Board of Appeal, the Board encouraged the Commission to launch a new call for interest for this function, in order to ensure the availability of a sufficient number of alternate chairs. In this context, it was mentioned that a new call for interest for the position of the technically qualified member would, nonetheless, be required in 2010.

The Management Board also requested that the Board of Appeal should establish a code of conduct for cases of potential conflicts of interest related to its alternate chair and additional members not pursuing this function as their main occupation.

9. Probationary period reports of the chair and the legally qualified member of the Board of Appeal
(*MB/RD/05/2009*)

Based on a recommendation by its members acting as reporting officers for the Board of Appeal, the Management Board confirmed the chair and the legally qualified member of the Board of Appeal in their functions.

10. Agency need for additional and more secure office space
(*MB/58/2009; MB/RD/06/2009; MB/RD/07/2009*)

The Chair informed the Board that a room document has been made available with details of a renovation project in ECHA's main building (*MB/RD/06/2009*). He made reference to the last Board meeting at which the matter had already been addressed, and invited the Executive Director to present the project and the state of the negotiations with the owner of the building.

The Executive Director summarised the reasons for entering into negotiations with the landlord, noting that they had begun after a retail business operator, who had previously resided in the only part of the main building not occupied by ECHA, terminated its rental agreement. He explained that the additional office space will be required to meet ECHA's permanent need for more workstations from 2011 onwards. A comparison with available alternatives, i.e. the rental of external office space, had shown that pursuing this project would be the economically most advantageous option. Additional advantages for the Agency of

having more office space available by autumn 2010 would be to have sufficient work stations in case the number of registrations significantly exceeds the current estimate, and to improve the security of the entire building.

The Chair thanked the Executive Director and noted that the matter deserves careful consideration, despite the tight timeframe. He then opened the floor for comments from other Board Members.

A representative of the Commission pointed out that the details provided in the room document did not sufficiently focus on the permanent need for more office space in 2011. He noted that security considerations could only be considered as a side issue, but not as a central argument for the project. The Board Member also stressed that a situation in which ECHA would not be able to pay back the 2010 Community subsidy because of financial obligations linked to a renovation project would not be acceptable for the Commission. In conclusion, he would not yet be in the position to agree to the project, even though it may eventually be the best solution for ensuring that sufficient office space is available in the medium and long term.

Other Board Members expressed their support to the proposal or enquired on specific points to be clarified, such as the timeframe for the landlord to enter into negotiations with other potential tenants, and whether ECHA would need more money from the Budgetary Authority in 2009 or 2010 to realise the project. Several Board Members referred to the window of opportunity currently available for renting the remainder of the ECHA building.

The Executive Director thanked the Board, and in particular the Commission representative, for the valuable comments. He made assurances that ECHA would not depend on additional financial support in order to pursue the project. In particular, the financing of the project would not require the use of the temporary Community subsidy requested from the Budgetary Authority for 2010.

The Executive Director emphasised that the Agency would, in any case, need to rent temporary office space in 2010. Any investment, particularly linked to security installations, would be lost afterwards – a situation that could be avoided by now renting and renovating the remaining part of the ECHA building in order to cater for medium and long term needs. He also stressed that the cost estimates given to the Board were cautious and that a tendering procedure for the project would most likely result in lower costs.

Replying to other specific questions, the Executive Director clarified that ECHA would indeed fully occupy its main building, for which it holds a purchase option, if the project were to be realised. He also noted that the current rental of space in an adjacent building could be terminated should the medium term situation, against the estimates, lead to reduced office space requirements.

The Chair thanked the Board and the Executive Director for their contributions. With regard to the comments made, he proposed that the Secretariat should provide additional information, in particular regarding the detailed staffing needs for the coming years, and the *ex-ante* analysis of other options which the Agency had carried out.

A new room document (MB/RD/07/2009) was presented to the Board.

Board Members thanked the Secretariat for the clear and comprehensive background information.

On the basis of document MB/RD/07/2009, the Management Board conditionally approved the rental of the additional office space and the renovation measures, and decided to notify the budgetary authority accordingly. A Commission representative expressed general support for the project on behalf of the Commission representatives. However, due to the limited time available for examining the details, the Commission services could not formally support the decision at the time of the meeting.

Against this background, it was agreed that the notification letter would only be sent to the budgetary authority on Friday 2 October 2009, in order to give the Commission representatives additional time to analyse the proposal in more detail and to provide their budgetary expertise in the drafting of the letter.

11. Amendment to the Guide on Reimbursement
(MB/59/2009)

The Management Board adopted a revised Guide for the Reimbursement of travel and accommodation expenses and payment of subsistence allowances to Management Board Members, Committee and Forum members and other participants of ECHA meetings. At the meeting, minor modifications, alongside those in document MB/59/2009, were agreed. In addition, it was confirmed that the Secretariat will provide Board Members with details of reimbursements after each meeting.

12. Amendment to the Board's Rules of Procedure
(MB/60/2009)

Based on a proposal by the Secretariat, the Management Board adopted the amendment to its Rules of Procedure to ensure that decisions vital for the functioning of the Agency can be taken by written procedure in case a meeting of the Management Board cannot be convened in time, due to circumstances outside the control of ECHA.

Whilst fully supporting the motivation of the Secretariat for proposing the amendment, several Board Members considered that Article 7 of the Rules of Procedure (urgent business) would be rendered too complicated if such exceptional situations be included. The Secretariat consequently proposed a new Article 7bis to the Rules of Procedure while leaving the existing Article 7 intact. This amendment was adopted.

The Board noted that there would be a need in the medium term to revisit the provisions of the Rules of Procedure, in particular those on the written procedure.

13. Report of the Executive Director
(MB/62/2009)

The Management Board received a report from the Executive Director on the activities and developments of the Agency since the last meeting.

The main focus of the subsequent discussion was on the SIEF campaign of ECHA and the workshop organised with lead registrants in Brussels on 11 September 2009. Board Members thanked ECHA for its efforts to support SIEF formation and for ECHA's additional activities in relation to data-sharing and joint submission. It was, however, acknowledged that challenges still remain and ECHA was encouraged to continue and increase the support it gives to industry.

Other issues discussed included the question of the legitimacy of "late pre-registrations"; the communication policy on Partner Expert Groups for Guidance updates; and the availability of guidelines on cost-sharing.

Board Members expressed their appreciation for the amount of work undertaken by ECHA in the last quarter.

The Management Board took note of the information provided and welcomed the methodology of the reporting.

14. Organisational changes within ECHA
(MB/63/2009)

The Executive Director informed the Management Board about changes to the organisational structure of the Agency, which are foreseen for 2010 and 2011.

While the organisational changes will not affect the total number of management positions as anticipated in the multi-annual staff policy plan and the REACH Revised Financial Legislative Statement, the changes will ensure that the Agency is adequately prepared for the rapidly increasing volume of scientific technical tasks and decisions to be taken after the first registration deadline.

It was clarified that the formal decision on ECHA's staff planning will be taken in early 2010 in the context of the next multi-annual staff plan and the preliminary draft budget for 2011. The Management Board took note of the information provided and welcomed the proactive forward planning of the Agency.

15. Status report on the formation of SIEFs, including the specific situation of SMEs
(MB/64/2009)

Following discussions at the previous Board meeting and notes subsequently submitted by Board Members, the Management Board heard a report from the Director of Registration and IT-tools on progress made in SIEF formation and ECHA's activities to support this process. Particular focus was given to the situation of small and medium sized companies (SMEs).

The Management Board took note of the information provided. Some Board Members highlighted that open questions resulting from the application of the SME definition under REACH would remain, and further discussion may be necessary. ECHA agreed to work together with interested Member States and the Commission to draw up a fact sheet aimed at assisting SMEs in fulfilling their obligations under the REACH Regulation.

16. Update on the dissemination of public information on chemical substances
(MB/65/2009)

The Director of Registration and IT-tools provided the Board with an update on the progress made towards establishing public electronic access to non-confidential information on substances held in the Agency's databases. In particular, the outcome of a round table with representatives from stakeholder organisations, convened by ECHA in Brussels on 6 July 2009, was presented.

The Board took note of the information provided and emphasised the importance of the dissemination of information on chemicals to the public, which was one of the core tasks of ECHA. In order to give the best possible support to the Agency to fulfil this task, the Board decided to establish an advisory group from among its members. The mandate of this advisory group would be:

- To monitor the progress made on the dissemination project
- To assist the ECHA management by giving advice when needed
- To act as "ambassadors" to civil society, in particular by reporting back to their respective stakeholders (and raising awareness)
- To report to the Management Board on its activities

It was agreed that this group will be composed of the following members: Mr. Gustaaf BORCHARDT, Ms. Ethel FORSBERG, Mr. Martin FÜHR, Mr. Antonello LAPALORCIA, Mr. Tony MUSU and Mr. Alain PERROY.

17. Information on ECHA's current practice with regard to publishing translations
(MB/66/2009)

The Director of Cooperation informed the Board about the Secretariat's current practice with regard to publishing translations in general, and in particular translated guidance documents.

It was stressed that after initial "teething problems", steady progress and effort are being made to make appropriate information available in the official languages of the European Union. ECHA has now sent a cooperation agreement to volunteering MSCAs to review and validate the translations of guidance.

Board Members welcomed the information provided and stressed the importance of the availability of information in all Community languages, in particular for SMEs. Some suggestions on how to improve ECHA's website were received (in particular, switching back to the starting language could be facilitated). It was indicated that the suggestions could be considered during the forthcoming re-design of the ECHA website. It was also indicated that communication of ECHA's indicative planning of documents to be translated would be desirable.

The Management Board took note of the information provided.

18. Budget implementation 2009, including correction of payment appropriations and update on budget transfers
(MB/67/2009)

The Management Board took note of the information provided in meeting document MB/67/2009.

19. Any other business

Global Chemical Leasing Award 2010

The Chair introduced the Global Chemicals Leasing Award, which is organised jointly by the United Nations International Development Organisation (UNIDO) and the Austrian government, and asked Board Members to pass this information on via their appropriate communication channels.

Final observation of the Court of Auditors on ECHA's accounts and the Agency reply

Referring to the Management Board's decision on the opinion on the final accounts for 2008, the Executive Director informed the Board about the final observations of the Court of Auditors, and the Agency's reply to this, which will be published in the Official Journal of the European Union. A copy of the Agency's reply was distributed at the meeting.

Information by the Commission

A Commission representative informed the Board that funding by the European Investment Bank would be principally available for SMEs that are implementing the REACH Regulation. He further referred the Board to useful recommendations contained in a special report of the Court of Auditors on agencies from 2008. This report was done without assessment of ECHA but the conclusions are of relevance for the Agency and the Board. The Secretariat agreed to make a copy available via CIRCA.

Finally, the Commission representative shortly outlined new developments regarding the proposal for a new regulation on the use of biocides, and provided some clarification regarding the recast of the RoHS Directive and the – limited - involvement of ECHA in this field.

Involvement of customs authorities in REACH enforcement

The floor was given to the Director of Cooperation who informed the meeting about the Forum's activities with regard to cooperation with customs authorities on the REACH and CLP enforcement. He mentioned in particular the establishment of a specialised Forum working group.

Question time with the Commission on REACH implementation

The Chair informed the Board about a question time with the Commission on the implementation of REACH convened by the European Parliament's Committee on Environment, Food Safety and Public Health on 6 October 2009, 9.30 – 11.00h.

Information on the 15th meeting in Cyprus

The Chair confirmed to the Board that the 15th MB meeting will be held in Limassol, Cyprus, on 17/18 December 2009. The Cypriot Department for Labour Inspection will be kindly hosting the meeting. More information will be provided by the Secretariat in due time. The

Chair gave give the floor to Mr NICOLAIDES, who provided some further practical information.

Open positions at ECHA

The Executive Director reported that ECHA has published the following positions, aiming to attract staff from all Member States:

1. ECHA/TA/2009/016: Junior Scientific Officer M/F AD5
2. ECHA/TA/2009/017: Junior Legal Advisor M/F AD5

He referred the Board to ECHA's website for more information on these and other open positions.

20. Next meeting and closure

The Chair reminded Members that the next meeting of the Management Board would be held in Limassol, Cyprus, on 17/18 December 2009.

III. Decisions taken/ Conclusions reached by the Management Board

The Management Board

- approved the minutes of its 13th meeting contained in document MB/M/03/2009, subject to the amendments indicated in the corrigendum attached to the present minutes.
- adopted the agenda for the 14th meeting as contained in MB/A/04/2009 rev.01.
- agreed to enter into a written procedure on a revised draft for a declaration of commitment, and corresponding Standard Security Requirements, to be signed by the legal representative of the national authority or the Commission services for the purpose of obtaining access to REACH IT.
- adopted the work programme of the Agency for the year 2010 as contained in document MB/56/2009 subject to minor modifications⁵; and instructed the Executive Director to forward the work programme to the Member States, the European Parliament, the Council and the Commission, and to have it published.
- endorsed the work plan for international activities of ECHA for the year 2010 as contained in document MB/57/2008.
- appointed Mr Andreas BARTOSCH as alternate Chairman of the Board of Appeal, and authorised the Chair to take the necessary steps to inform the candidate of the decision taken and to determine the date on which the five-year period referred to in Article 90(1) of the REACH Regulation begins for the appointment.
- confirmed the Chair and the legally qualified member of the Board of Appeal in their functions.
- conditionally approved the rental of additional office space and renovation measures as proposed in document MB/RD/07/2009 and decided to notify the Budgetary Authority of this intention in accordance with Article 96(11) of the REACH Regulation (EC) No 1907/2006.
- adopted a revised Guide for the reimbursement of travel and accommodation expenses and the payment of subsistence allowances to Management Board Members, Committee and Forum members and other participants of ECHA meetings, as contained in document MB/59/2009, subject to one small modification⁶.

⁵ A reference to the contribution of the REACH and CLP Regulations to the Strategic Approach to International Chemical Management (UNECE SAICM) was added and the indicator for stakeholder satisfaction under Activity 10 set to "very good".

⁶ In particular regarding section 3.3.: The word ""may"", in the last sentence, was replaced by ""will"".

- adopted the following amendment to its Rules of Procedure:

*(NEW) Article 7 bis
Impossibility to convene meetings*

1. In case Management Board meetings cannot be convened due to circumstances outside the control of the Agency, the Chairman in consultation with the Executive Director shall initiate written procedures on matters where an absence of a decision would have harmful consequences to the functioning of the Agency.

2. These decisions shall be adopted in accordance with the procedure outlined in Article 7.

3. A full report on the outcome of the written procedure shall be made without undue delay.

- decided to establish an advisory group in relation to the dissemination of public information on chemical substances (composition: Mr. Gustaaf BORCHARDT, Ms. Ethel FORSBERG, Mr. Martin FÜHR, Mr. Antonello LAPALORCIA, Mr. Tony MUSU and Mr. Alain PERROY.

List of agreed follow-up actions

- The Secretariat will inform the Management Board about the contingency planning for 2010 at the December 2009 meeting, and develop a scoreboard for identifying the need to implement the contingency plan.
- The Secretariat will report on the status and the outcome of a risk assessment audit of REACH-IT at the December 2009 meeting.
- The Secretariat will present its communication policy, which is currently still being finalised, to the Management Board.
- The Secretariat will communicate an indicative plan regarding which documents are foreseen to be translated in 2010.
- The Secretariat will inform the Board of the reaction of the Budget Authority to the letter sent in its name concerning the rental/renovation project.

IV. List of Attendees

Representatives of the Member States

Zoltán ADAMIS (HU)
Aurelija BAJORAITIENĖ (LT)
Karel BLÁHA (CZ)
Marta CIRAJ (SI)
Francis E. FARRUGIA (MT)
Ana FRESNO RUIZ (ES)
Claude GEIMER (LU)
Thomas JAKL (AT)
Katarzyna KITAJEWSKA (PL)
Pirkko KIVELA (FI)
Jan Karel KWISTHOUT (NE)
Antonello LAPALORCIA (IT)
Martin LYNCH (IE) also acting as proxy of John ROBERTS (UK)
Catherine MIR (FR)
Leandros NICOLAIDES (CY)
Alexander NIES (DE) also acting as proxy of Ethel FORSBERG (SE)
and Per NYLYKKE (DK)
Edita NOVÁKOVÁ (SK)
Teodor OGNEAN (RO)
Armands PLATE (LV)
Fernanda SANTIAGO (PT)
Maria-Miranda XEPAPADAKI-TOMARA (EL)

Representatives of the Commission

Elke ANKLAM
Gustaaf BORCHARDT also acting as proxy of Heinz ZOUREK for the 2nd day
Heinz ZOUREK

Individuals from interested parties (appointed by the Commission)

Martin FUEHR
Tony MUSU
Alain PERROY

Other Observers

Keith BAILEY on behalf of John ROBERTS (UK)
Lars FOCK on behalf of Per NYLYKKE (DK)
Sten Åke SVENSSON on behalf of Ethel FORSBERG (SE)
Brith SØRLIE on behalf of Ms Anne Beate TANGEN (NOR)

Astrid SCHOMAKER (COM)
Astrid BARTELS (COM)
Cristina DE-AVILA (COM)
Mario BECCIA expert accompanying Mr LAPALORCIA (IT)

ECHA staff

Geert DANCET (Executive Director)

Andreas HERDINA (Director of Cooperation)
Jef MAES (Director of Resources)
Jukka MALM (Director of Assessment)
Christel MUSSET (Director of Registration and IT Tools)
Minna HEIKKILÄ (Senior Legal Advisor)
Anna-Liisa SUNDQUIST (Chair of the Member State Committee)
Jose TARAZONA (Chair of the Committee for Risk Assessment)
Ann THUVANDER (Chair of the Committee for Socio-economic Analysis)
Lindsay JACKSON (Head of Unit, Communications)

Kari KLEMETTI (Information Security Officer) for agenda item 5
Sari HAUKKA (Registrar of the Board of Appeal) for agenda item 6
Leena YLA-MONONEN (Head of Unit, Committees and International Relations) for agenda item 7
Eva SANDBERG (Senior Scientific Officer) for agenda item 7
Markku JUNKKARI (Head of Unit, Human Resources) for agenda item 10 and 14
Laurence HOFFSTADT (Scientific Officer) for agenda item 15
Catherine CORNU (Scientific Officer) for agenda item 16

Alain LEFEBVRE (Head of Unit, Executive Office)
Frank BÜCHLER (Legal Officer, Executive Office)
Andrea IBER (Legal Officer, Executive Office)
Mervi MUSTAKALLIO (Planning and Monitoring Officer, Executive Office)

Annex

Corrigendum to Document: MB/M/03/2009

(Agreed at the Management Board meeting on 29 September 2009)

**Minutes of the Meeting of ECHA's Management Board
held on
25/26 June 2009**

5.1. REACH-IT access for Member State Competent Authorities and the Commission
(MB/39/2009, MB/39/2009 rev.01 and rev.02, MB/40/200)

[page 6, 2nd paragraph]

Two Member State representatives expressed reservations ~~on behalf of their Member States~~, declaring that they could not support the proposed declaration. These two members submitted written declarations which are attached to these minutes⁷.

Annex 3

[page 17]

Statement by the Swedish representative on the decision under agenda point 5.1. (Access to REACH-IT for Member State Competent Authorities and the Commission

“Sweden cannot support the Declaration of Commitment by MSCA as adopted by a majority of MB-members.

According to the Swedish constitution, (the Swedish Freedom of the Press Act) and the principle of public access to information, everyone has the right of access to official documents. Consequently, a Swedish authority that receives a request, in this case the Swedish Chemicals Agency, is obliged to examine on a case-by-case basis whether the information is confidential or if it could be disclosed without causing damage. Unless the information is covered by one of the provisions laid down in the Swedish Secrecy Act the Swedish authority is obliged to disclose information that it holds to the applicant upon request.

Moreover, the Directive 2003/04/EG on public access to environmental information provides that member states shall ensure that public authorities are required to make available environmental information held by or for them.

On these grounds, ~~Sweden~~ *the Swedish representative* cannot acknowledge that ECHA has the exclusive responsibility to decide on the dissemination of information stored in Reach-IT. The requested opinion from the COM on the legal interpretation on the relationship between Reach and horizontal national or EU legislation on public access to data is not yet available. However, the obligation not to disclose information in a non-disclosure agreement cannot limit the application of rules regarding freedom of access to information laid down in national or, as is the case for ECHA, in community legislation. It must be made clear that such agreements do not limit and are without prejudice to legislation about access to documents.”

⁷ See Annex III