

## PRELIMINARY CONCLUSIONS

**31<sup>ST</sup> MANAGEMENT BOARD MEETING  
26-27 SEPTEMBER 2013, HELSINKI**

### 1. Report from the Executive Director

The Management Board received the quarterly update on important developments related to the Agency's activities, since the previous meeting, including the results on ECHA Work Programme indicators. The Executive Director also shortly reported the entry into operation of the Biocidal Products Regulation. Unanimously, the Board members congratulated the Agency for the successful transition from the Biocidal Products Directive to the Biocidal Products Regulation.

While Board members raised some questions to which the ED responded, they also welcomed the opportunity to address specific issues and requests for clarification raised by the report to the Secretariat before the meeting. The Chair concluded that the new practice can be continued, allowing the meeting to focus on the developments related to the Agency's operations reported.

### 2. Budget 2014 and MFF 2014-2020 update

The Management Board took note of the report on developments regarding the mid and long term resourcing of ECHA, further to the information presented earlier in 2013.

The report included information on the recent European Commission's Communication on the human and financial resources for decentralised agencies 2014-2020. Since the cuts proposed for ECHA went beyond what was proposed for other 'cruising speed' agencies and because ECHA's staff for Biocides - as 'start-up' agency - is proposed from 2017 onwards to be significantly reduced compared to the former Commission planning, the Executive Director has written to the Commission stating that cuts going beyond the 5% already foreseen in the multi-annual work programme would mean that ECHA could not deliver as foreseen.

Considering the staffing uncertainties of ECHA, some Board members recommended ECHA to reflect on realistic and reasonable objectives for the coming years, focusing on core legal obligations and managing the business in the framework of the budgetary constraints. The Management Board however acknowledged that staff cuts above 5% over the next 5 years for ECHA would require engaging in an exercise of considering negative priorities and exploring options available within the legal and budgetary framework to ensure that sufficient manpower is available for implementing the planned multi-annual work programme.

Regarding the financing of the European School in Helsinki the Board noted that the developments, in particular that the European Parliament's competent Committee had taken the position that the contributions for ECHA staff should be financed from the EU

general budget but that there remains still the possibility that the contributions will have to be financed by fees, a prospect which was considered as inappropriate by a Board member representing interested parties.

Considering that the discussion with the European Commission in relation to the establishment of a reserve fund for ECHA in 2014 was still under their consideration, the Board mandated the Executive Director to continue seeking possible modalities of creating a limited ring-fenced reserve fund, if necessary as derogation for ECHA of the upcoming revision of Financial Regulation.

Finally, it was discussed what other measures, apart from a reserve fund mechanism, would be needed to address resources uncertainties in the short and mid-term. Here it was noted that separate bilateral discussion between the Secretariat and the Commission services are needed to clarify the both, the actual Biocides income estimates of ECHA, as well as the possibilities for temporarily reallocating staff to the REACH section in case of lower than expected fee revenues.

### 3. Multi-annual Work Programme 2014-2018

The Executive Director presented the draft multi-annual work programme (MAWP), setting out how ECHA will contribute to the objectives of the REACH, CLP, Biocidal Products and PIC Regulations.

A public consultation was organised in 23 EU languages for the first time. The consultation took place between 28 May and 15 July 2013. The Management Board's Working Group on Planning and Reporting met in Helsinki on 5 September 2013 to discuss the comments received and to provide its opinion on necessary amendments to the text. The final draft, taking into account the comments received, was submitted for the Management Board's adoption.

In line with the conclusions on the previous agenda point, the Board members agreed that if the EU institutions should conclude that agencies, including ECHA, need to reduce staff to a significantly higher degree than currently anticipated in the MAWP, the Management Board would revisit it. Subject to the above and with minor technical modifications, the Board adopted the Multi-Annual Work Programme for 2014-2018.

### 4. Work Programme 2014

The Executive Director presented the work programme of the Agency for the coming year. The members of the Management Board had received a draft of the Programme in June 2013 for comments. Based on the received comments, a new version was submitted to the Management Board for adoption. The Deputy-Chair presented the findings of the working group on planning and reporting following the meeting on 5 September in Helsinki.

Considering the necessity to prioritise actions in the framework of budgetary constraints while ensuring a successful long-term implementation of ECHA's strategic objectives, a suggestion was made by a member of the working group on planning and reporting to explore possibilities, if any, to better formulate the 2015 Work Program as well as the ECHA's planning process in order to allow for a better assessment of the efficiency and the relevance of their outputs. The Management Board took note of the proposal.

Following an exchange of comments by members, the Management Board adopted the Agency's Work Programme 2014, noting that it contains the same caveat regarding resources as introduced in the Multi-annual Work Programme (see above).

## 5. Biocides

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### 5.1 Report on the entry into operation of the BPR

The Management Board took note of the report given by the Director for Regulatory Affairs on the status of the operation of ECHA's tasks under the Biocidal Product Regulation (BPR) following the application date (entry into operation) of the Regulation, on 1 September 2013. The preparations for the biocides tasks have been intensive over the summer and all priority items that were in the pipeline have been delivered. This brought the Agency to a reasonable and successful start at the application date of the BPR, but further work remained to be done to progress on items that were postponed due to time and resource limitations. That work needs in the members' opinion to be undertaken in close collaboration with MSCAs and the Commission.

### 5.2 Establishment of a service charge for chemical similarity checks

The Board members were presented a revised proposal to provide a 'chemical similarity check' service following discussions initiated in the April meeting with Member States Competent Authorities under the BPR and the European Commission and the written procedure in July-August 2013.

A revised proposal was presented to the Management Board, foreseeing a range of charges instead of a fixed single charge, allowing taking the workload involved more case-specifically into account. The service charge has been estimated based on the total time required by ECHA staff to perform the service and the development costs incurred to establish an IT-based process.

Following a long debate focused on the possibility for introducing SMEs rebates, an option which the Secretariat would have wanted to take into account but eventually concluded as not feasible in the specific context of this Decision.

To reduce the costs paid by applicants, including SMEs, it was agreed to abandon the IT development planned for managing the receipt and processing applications, estimated at around 150.000 euros, which would reduce the charge by 1.000 euros per application. In addition, a review clause was agreed which obliges the Secretariat to revisit the charge after having dealt with 50 applications and report then back to the Management Board, including on SME aspects.

The proposed Decision on charge for Chemical Similarity Check was adopted subject to the favourable opinion of the European Commission which is still to be obtained. Once adopted the Decision will be translated in the Official EU languages and published.

## 6. Integrated Quality management System

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The Board took note of the information provided in the annual IQMS progress report on main activities undertaken since September 2012, the status and the next steps of the ISO 9001 Roadmap implementation, which strives for formal certification. The ECHA secretariat noted that introducing ISO 9001 standards in ECHA are expected to reduce workload as the standard creates efficiencies.

## 7. Implementing rules to the Staff Regulations

The Management Board adopted Implementing Rules on performance appraisal and reclassification of ECHA staff and instructed the Executive Director to submit the documents as required to the European Commission for agreement. This would allow that the rules are applied from 1 January, so that contracts agents working in ECHA can also be considered for a promotion. To this end, the current state of negotiations between the Agencies Network and the Commission for such appraisal and reclassification rules were adopted by the Management Board, noting that the further discussions with the Commission on the issue may require the Board to confirm the final outcome in its December meeting.

The Management Board also adopted a corrigendum to the existing Implementing Rules on the conduct of administrative inquiries and disciplinary proceedings.

## 8. Update of the Consultation procedure on Guidance

The Director of co-operation presented the multiple drivers for a need to update the current consultation procedure for developing and updating technical guidance issued by ECHA, including specific needs with respect to guidance on the Biocidal Products Regulation (BPR) and on the Prior Informed Consent (PIC) Regulation.

The Management Board agreed with the number of developments with respect to BPR and PIC guidance, but wished to retain its decision-power on the procedure. It therefore decided to keep its role in the implementation of changes and any future updates, as endorsed in 2011<sup>1</sup>. The ECHA Secretariat was requested to present a revised proposal for the procedure, whenever deemed necessary.

## 9. Eligibility criteria for membership in ECHA bodies

With minor modifications to the provisional eligibility criteria, adopted 12 month ago in Bucharest, the Management Board adopted the final criteria and the guidelines for the membership in the ECHA's bodies, i.e. Management Board, Committees and the Forum as well as for the Executive Director, the Accounting Officer and the regular member of the Board of Appeal.

Changes related to the new Biocidal Products Committee which has a different expert structure and also recommendations from the Advisory Committee on Conflicts of Interest which was consulted on these criteria in April 2013.

Unrelated to the topic proposed for decision, one Board member voiced concerns about the ECHA Committees approach in relation to the exclusion of Committee members from a vote when these members are employed by the public authority responsible for the dossier preparations that initiate ECHA proceedings. It was noted on this that ECHA has with the Advisory Committee on Conflicts of Interest established an expert body for such complex questions related to the implementation of the policy and that the procedures in place should be used by the Executive Director and the Committee Chairs to clarify the issue. The Secretariat will review the issue in cooperation with the Advisory Committee and report back to the Management Board, as appropriate, on the result of that review.

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<sup>1</sup> At its 21st meeting in March 2011, the MB approved the (Revised) Consultation Procedure on Guidance. A major element of this revision by comparison with the previous version was how it addressed the issue of what to do in the case of a lack of consensus between authorities (Member States, Commission, ECHA).

## 10. Committee issues

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### 10.1 Functioning of the Committees

The Management Board took note of the assessment of the functioning of ECHA Committees, in particular RAC and SEAC, as a follow-up to the discussion of the June 2013 meeting. Following the discussion in the Working Group on Planning and Reporting of 5 September 2013, Member States have been asked for the first time to consider the expectation of availability for rapporteurship from the candidate and commitment of support from the MSCA before (re)appointing committee members to RAC or SEAC. As this bore fruit, it is proposed to continue that practice together with support measures from ECHA. Furthermore, joint efforts to improve the efficiency of the opinion forming process will be continued. Finally, ECHA suggested continuing the discussion on this issue at the MSCA Directors' planning meeting, on 20 November 2013.

The Executive Director, therefore, proposed to the Management Board to appoint all proposed individuals.

### 10.2 Appointment of Committee members

The Management Board appointed new nominees for RAC and SEAC, and renewed the 3-years term of a number of RAC and SEAC members. The Secretariat had brought back the decision for re- and new nominations of these members after a postponement of the decision in June, noting that the activity record of the members proposed for renewal was good.

## 11. Report from the advisory group on dissemination

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The Chair of the Working Group on dissemination, presented an update of the group since the last report given to Board members in March 2012. Together with the ECHA management, the working group on dissemination focused on the:

- Progress made on dissemination and other publication of information on chemical substances,
- Dissemination of information generated in the context of new Agency activities,
- Future development of the Agency's dissemination portal.

The Board members took note of the information provided and appreciated the achievements of the advisory group since its creation. It was proposed that the document and its annexes is published.

## 12. Data available for enforcement authorities through the RIPE IT tool

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The Management Board endorsed the removal of the country division from RIPE (except for PPORDs) and mandated the Executive Director to further develop the data requirements of the RIPE tool, in order to accommodate the evolving needs of national enforcement authorities.

The Executive Director will decide on further technical development of the RIPE tool, taking due account of the resources, priorities and risks for ECHA, and regularly report back to the Management Board.

## 13. Items for information

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The Management Board members took note of the:

- Outcome of written procedures
- Transfers within the budget

## 14. Any other business

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### Revised Framework Financial Regulation for EU Agencies

The Board took note of the status of the adoption of the new Commission Framework Financial Regulation for EU agencies and the foreseen procedure for implementing the new rules in ECHA, including derogations required by ECHA which will be negotiated between the Secretariat and the Commission. Given the high level of uncertainties and risk for ECHA, it was still in particular hoped that Commission would agree on derogation for ECHA, specifically to allow for a mechanism to retain a certain safety margin of fee income to cover for shortfalls.

### Update from the working group Board of Appeal

An update on pending issues was given by the working group on the Board of Appeal.

### MSCA Directors' planning meeting

The Chair informed that the annual meeting with MSCA directors is planned for 20 November 2013. The Secretariat is carrying out a survey in order to better understand the status regarding the workload and available resources at national level and to better adjust the agenda of the meeting. The copies of the preliminary agenda and the survey were available as room documents.

Several Board members made practical suggestions on how to improve the usefulness of the meeting, which the Secretariat will now consider in finalising preparations.

### Changes in membership

The Management Board bid farewell to three Management Board members, thanking them for their active contributions over the years:

- Francis FARUGGIA, from Malta
- Leandros NICOLAIDES, from Cyprus
- Armands PLATE, from Latvia

### Next meeting

The next meeting of the Management Board will take place on 17-18 December 2013, in Helsinki.

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