

**DECISION OF THE MANAGEMENT BOARD ON THE FINANCIAL
ARRANGEMENTS FOR THE TRANSFER OF A PROPORTION OF FEES TO THE
MEMBER STATES**

THE MANAGEMENT BOARD,

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, and in particular Article 74(4) thereof,

Having regard to Commission Regulation (EC) No 340/2008 of 16 April 2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), and in particular Article 14(2) thereof,

WHEREAS,

1. A proportion of the fees collected by the European Chemicals Agency (hereinafter referred to as "the Agency") should be transferred to the relevant Member State Competent Authority for work done in the context of a substance evaluation procedure or for rapporteur work done in the Risk Assessment Committee and the Committee for Socio-economic Analysis (hereinafter referred to as "the Committees") in the context of restrictions proposals or of applications for authorisation pursuant to Regulation (EC) No 1907/2006.
2. It is for the Management Board, following a favourable opinion from the Commission, to establish financial arrangements for such transfers, including the amounts to be transferred.
3. The amounts to be transferred should be fixed in compliance with the principle of economy, efficiency and effectiveness and at a level that ensures that the Agency continues to have available sufficient financial resources to undertake its tasks as defined in Regulation (EC) No 1907/2006, having regard to its existing budgetary appropriations and pluriannual estimates of income, including the planned European Union subsidy as laid down in the Communication from the Commission on the programming of human and financial resources for decentralised agencies for the period 2014-2020 (COM(2013)519).
4. In fixing the amounts to be transferred account should be taken of the workload and related costs of the Competent Authorities of the Member States. The amounts transferred are not in all cases foreseen to compensate for the entire costs occurring to the Member State Competent Authorities.
5. The amounts to be transferred envisaged in this Decision have been calculated on the basis of experience gained and reports on time spent received from the Member State Competent Authorities.

6. Differences in earnings and cost of living of the different Member States should also be taken into account.
7. The average earnings index used for calculating the scale of payments in annex to this Decision is based on the latest data made available by Eurostat. Updated data is expected to be made available by Eurostat at the earliest in 2016 and can be taken into account in the course of the next revision of this Decision.
8. As foreseen by Regulation (EC) No 340/2008, a maximum proportion of the fees to be transferred to the Competent Authorities should be set on a pluriannual basis.
9. Where the Committees decide to appoint a co-rapporteur, the transfer should be divided between the rapporteur and the co-rapporteur.
10. The provision of services by Committee members should be governed by a written contract between the Agency and the employer of the person concerned.

[Following a favourable opinion from the Commission, Commission Decision C(2014)9292 final of 10.12.2014]

HAS DECIDED AS FOLLOWS:

Article 1

Scope of transfer

1. A transfer of a proportion of fees received by the Agency shall apply to
 - The conclusion of a substance evaluation procedure pursuant to Regulation (EC) No 1907/2006 by a Member State Competent Authority;
 - Rapporteur work done in the Risk Assessment Committee and the Committee for Socio-economic Analysis in the context of a restrictions proposal pursuant to Regulation (EC) No 1907/2006;
 - Rapporteur work done in the Committee for Risk Assessment and the Committee for Socio-economic analysis in the context of an authorisation application pursuant to Regulation (EC) No 1907/2006.
2. Transfers shall not be paid for such work emanating from tasks related to transitional measures defined in Articles 135-137 of Regulation (EC) No 1907/2006.

Article 2

Scale of payments

1. The scale of payments for substance evaluation and rapporteurs work in restriction processes is set in an Annex to this Decision. The payments are calculated on the basis of the maximum workload of
 - (a) Substance evaluation
 - Up to 75 days in 2015, 70 in 2016 and 65 in 2017; ¹

¹ The evaluation of similar substances can be subject to a specific agreement between the Agency

- (b) Restriction
 - Up to 25 days for RAC rapporteur work;
 - Up to 30 days for SEAC rapporteur work,
multiplied by the Agency's daily rate, representing the average cost for similar work at the Agency and including overhead cost, and adjusted with a correction coefficient.
- 2. Payments shall be limited to the number of days reported by the evaluating Member State or rapporteurs when lower than the number of reference days mentioned in paragraph 1.
- 3. The scale of payment for rapporteurs work done in the context of authorisation applications per rapporteur of each Committee will consist of 12.5% of the application specific base fee and, where relevant, additional application specific fees determined as follows:
 - The application specific base fee shall, irrespective of the applicant being a non-SME, medium, small or micro enterprise as defined in Article 2 of Regulation (EC) No 340/2008 consist of 76.6% of the standard base fee as set out in Table 1 of Annex VI to that Regulation.
 - Additional application specific fees shall, irrespective of the applicant being a non-SME, medium, small or micro enterprise as defined in Article 2 of Regulation (EC) No 340/2008, consist of 76.6% of the standard additional fees as set out in Table 1 of Annex VI to that Regulation.

The application specific base and additional fees shall be adjusted with a correction coefficient.

- 4. The correction coefficients laid down in the Annex may be updated annually by a decision of the Executive Director of the Agency when new statistical information is available at Eurostat. For the Member States for which 2010 Eurostat data was not yet available at the time of this Decision the correction coefficients laid down in the Annex should be updated by a decision of the Executive Director when new statistical information is available at Eurostat. The index of the preceding reference year shall be used for Member States for which new information is not available.
- 5. The correction coefficient comprises 50% of the Price Level Index² and 50% of the Index of average earnings³ published by Eurostat as laid down in the Annex.
- 6. Any review shall be without prejudice to the principles of economy, efficiency, and effectiveness, and the need to ensure that the Agency has sufficient resources available to undertake its tasks as defined in Regulation (EC) No 1907/2006, having regard to its existing budgetary appropriations and pluriannual estimates of income, including a Community subsidy.

and the evaluating Member State for a proportional reduction of the payment.

² Comparative price levels of final consumption by private households including indirect taxes (EU-27=100)
<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tec00120>

³ Average annual gross earnings by economic activity - NACE Rev. 2
http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_27&lang=en

Article 3

Collecting data on actual workload and salary cost

In carrying out tasks referred to in Article 1(1), the respective rapporteur or the Member State Competent Authority shall fill in time sheets provided by the Agency to establish the actual time spent. These shall be forwarded to the Agency.

Article 4

Contractual arrangements

1. Each Member State shall nominate entities, including a Member State Competent Authority, which shall be parties to a Framework Contract with the Agency for the payment of the amounts to be transferred under this Decision.
2. The Executive Director shall put in place the necessary contractual and administrative arrangements in conformity with the financial rules applicable to the Agency.

Article 5

Payments

1. A transfer is only payable where a contract for the work to be executed has been signed between the Agency and the parties to the Framework Contract referred to in Article 4(1), and the tasks have been carried out according to the contract.
2. On request by a Competent Authority, an advance payment of a maximum of 30% of a total amount transferable under substance evaluation to a Member State Competent Authority shall be authorised at the time of signing of the Service Agreement for a specific substance to be evaluated between it and the Agency. In the event that a Member State Competent Authority fails to complete the evaluation in accordance with the agreed-upon specifications, the advance payment shall be refunded to the Agency.
3. Payments shall be made in euros within 30 days of the date when the delivery of work was accepted either by the Committee concerned, or in the case of substance evaluation, by the Agency.
4. Where a Committee appoints a co-rapporteur, the transfer shall be divided according to the agreement on the division that the rapporteurs have communicated to the Agency and which has been included in the contract.

Article 6

The maximum proportion

1. For the period 2015-2017, the maximum proportion of the fees which can be transferred to Member States is fixed at

a) 25% of the base fees related to authorisation applications and reviews as defined in Article 2(3) of this Decision	for rapporteur work done in the Committee for Risk Assessment and the Committee for Socio-economic analysis in the context of an authorisation application pursuant to Regulation (EC) No 1907/2006, and
b) 5% of the Agency's registration fee income under Regulation (EC) No 1907/2006 for that period and the remaining fee reserve at 31.12.2014	for the conclusion of a substance evaluation procedure by a Member State Competent Authority or rapporteur work done in the Risk Assessment Committee and the Committee for Socio-economic Analysis in the context of a restriction proposal pursuant to Regulation (EC) No 1907/2006;

For the period 2015-2017, the overall ceiling in absolute amount of the fees which can be transferred to Member States is fixed at EUR 12.5 million.

2. The Agency shall continuously monitor the level of payments with a view to adjust the level of payments if there are indications that the limits set in paragraphs 1 and 2 may be exceeded.

Article 7

Review and reporting

1. The Management Board shall review the Decision at the latest in 2017 with a view to have a revised decision, applicable as of 1 January 2018.
2. Should the ceilings set in Article 6 be approached before the end of the period in 2017 or the work of Member States under Regulation (EC) No 1907/2006 be overly affected by the current arrangements, this Decision shall be revised without undue delay. To this end, the Management Board shall monitor the implementation of this decision regularly with the support of the secretariat of the Agency. A first review in this respect shall be undertaken by the Management Board at the latest twelve months after the application of this Decision.
3. A technical report monitoring the situation with regard to the ceiling will be presented to the Management Board bi-annually. At the end of 2015, a mid-term review will be launched.
4. In March 2016, a report shall be presented to the Management Board Working Group on transfer of fees which will report to the Management Board.

Article 8

Final provisions

1. This Decision and the estimates of income on which it is based are without prejudice to the Communication from the Commission on the Programming of human and financial resources for decentralised agencies for the period 2014-2020 (COM(2013)519).
2. This Decision shall apply from 1 January 2015. It shall repeal Decision MB/22/2012/D of the Management Board of 07 February 2013.

Nina CROMNIER
Chair of the Management Board

ANNEX

SCALE OF PAYMENTS⁴								
Man Day=600€								
	Index of average Earnings (A) 2010 ⁵	Price level index (B) 2010	Average: 0,5A + 0,5B	Substance evaluation (EUR) 75 Days			RAC rapporteur (EUR) 25 days	SEAC rapporteur (EUR) 30 days
				75 (2015)	70 (2016)	65 (2017)		
Austria	63	86	75	33554	31317	29080	11185	13422
Belgium	65	91	78	34948	32618	30288	11649	13979
Bulgaria	9	41	25	11240	10491	9741	3747	4496
Cyprus	24	62	43	19393	18100	16807	6464	7757
Croatia	50	73	61	27617	25776	23935	9206	11047
Czech Republic	21	61	41	18525	17290	16055	6175	7410
Denmark	91	115	103	46414	43320	40226	15471	18566
Estonia	19	61	40	18130	16922	15713	6043	7252
Finland	64	100	82	36873	34414	31956	12291	14749
France	45	90	68	30589	28549	26510	10196	12235
Germany	62	85	73	33023	30822	28620	11008	13209
Greece	39	78	58	26203	24456	22709	8734	10481
Hungary	17	52	34	15392	14366	13339	5131	6157
Iceland	50	86	68	30593	28553	26514	10198	12237
Ireland	76	97	87	39025	36423	33822	13008	15610
Italy	50	83	67	30059	28056	26052	10020	12024
Latvia	16	58	37	16510	15410	14309	5503	6604

⁴ The payment amounts are calculated on the basis of a daily rate of EUR 600 (8 hours) and applying the country-specific index for obtaining the payment amounts for each Member State.

⁵ 2006 data corrected with the average salary increase in the EU over 2006-2010 for: Austria, Belgium, Italy, Luxembourg, Malta, Norway, and Portugal

Lithuania	15	52	33	15026	14025	13023	5009	6011
Luxembourg	79	100	90	40354	37663	34973	13451	16141
Malta	26	64	45	20110	18769	17429	6703	8044
Netherlands	75	89	82	36853	34396	31939	12284	14741
Norway	87	124	105	47464	44300	41135	15821	18986
Poland	20	50	35	15772	14721	13669	5257	6309
Portugal	15	72	43	19427	18132	16837	6476	7771
Romania	10	47	29	12885	12026	11167	4295	5154
Slovakia	16	58	37	16645	15535	14425	5548	6658
Slovenia	38	71	55	24556	22919	21282	8185	9822
Spain	47	79	63	28527	26625	24724	9509	11411
Sweden	60	98	79	35561	33190	30820	11854	14224
United Kingdom	59	89	74	33280	31062	28843	11093	13312
ECHA	100	100	100	45000	42000	39000	15000	18000
<i>min</i>	<i>9</i>	<i>41</i>	<i>25</i>					
<i>max</i>	<i>100</i>	<i>124</i>	<i>105</i>					
<i>avg</i>	<i>45</i>	<i>78</i>	<i>62</i>					