

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

(Document adopted by the Management Board)
Consolidated version of 21 December 2011

¹ Annex last updated on 21 December 2011

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

THE MANAGEMENT BOARD OF THE EUROPEAN CHEMICALS AGENCY

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,

Having regard to the revised Financial Statement of 12 July 2006, SEC(2006)924,

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 Community subsidy as reflected in the revised financial statement.
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 to be transferred envisaged in this Decision have been calculated on the basis of best available estimates of the workload involved; these estimations should be reviewed on the basis of experience gained and reports on time spent received from the Member State Competent Authorities.

5. Differences in earnings and cost of living of the different Member States as well as differences in currencies for Member State Competent Authorities located outside the Euro-zone should also be taken into account.
6. Where the Committees decide to appoint a co-rapporteur, the transfer should be divided between the rapporteur and the co-rapporteur.
7. The provision of services by Committee members should be governed by a written contract between the Agency and the employer of the person concerned.
8. As foreseen by Regulation (EC) No 340/2008, a maximum proportion of the fees and charges to be transferred to the Competent Authorities should be set on a pluriannual basis.

Following a favourable opinion from the Commission C(2011) 3634 final of 27.5.2011,

HAS ADOPTED THIS DECISION:

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 workload of
 - 75 days for substance evaluation
 - 20 days for RAC rapporteur work
 - 25 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 and, where applicable in accordance with Article 5 (2), with a currency exchange rate.

- 1a. 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 and, where applicable in accordance with Article 5(2), with a currency exchange rate.

2. The correction coefficient comprises 25% of the Price Level Index² and 75% of the Index of average earnings³ published by Eurostat as laid down in the Annex.
3. The currency exchange rate for non-euro currencies is the average of the monthly exchange rates for the year of the Indices referred to in paragraph 4, available at the European Central Bank.
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 at least fifteen Member States and at the latest by 31 March. The index of the preceding reference year shall be used for Member States for which new information is not available.
5. At the time of the update, also the applicable exchange rate for non-euro currencies shall be updated to be the average of the monthly exchange rates for the new reference year of the Indices referred to in paragraph 4, available at the European Central Bank.
6. Any update 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.

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=0&language=en&pcode=tsier010>

³ Average gross annual earnings in industry and services
<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=0&language=en&pcode=tps00175>

Article 3
Collecting data on actual workload and salary cost

1. 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.
2. In order to prepare the review referred to in Article 7, the Agency shall invite the Member State Competent Authorities to fill in a table provided by the Agency to collect data on the salary costs of their scientific staff during the years 2010 to 2012 and forward it to the Agency at its request.

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. Payments shall be made in the currencies of the Member States within 45 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.
3. Payments shall be made against an invoice according to the Framework Contract.
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 2009-2012, the maximum proportion of the fees and charges which can be transferred to Member States is fixed as 2.3% of the Agency's fee income for that period.
2. To this effect, the Agency shall keep the level of payments under continual review with a view to adjust the level of payments if there are indications that the 2.3% limit may be exceeded.

Article 7
Review

The Management Board shall review the scale of payments as provided for in Article 2(1), 2(1a) and in the Annex to this Decision at the latest by 31 March 2013, taking into account the data collected pursuant to Article 3.

Article 8
Repeals and entry into force

Decision MB/20/2009/D of the Management Board of 5 March 2010 shall be repealed.

This Decision shall enter into force on the day of its adoption.

Done at Helsinki, 20 June 2011

For the Management Board

The Chair

signed

Thomas JAKL

Scale of payments¹

	Price level index (A) 2007	Index of average earnings (B) 2007	Weighted average: 0.25A+ 0.75B	Substance evaluation (EUR) 75 days	RAC rapporteur (EUR) 20 days	SEAC rapporteur (EUR) 25 days	Exchange rate avg. 2007
Austria	101.4	115.0	111.6	59,071	15,752	19,690	n/a
Belgium	106.3	117.8	115.0	60,861	16,230	20,287	n/a
Bulgaria	46.5	8.0	17.6	9,333	2,489	3,111	1.9558
Cyprus	88.8	65.0	70.9	37,546	10,012	12,515	n/a
Czech Republic	62.4	25.3	34.5	18,286	4,876	6,095	27.766
Denmark	137.7	162.1	156.0	82,575	22,020	27,525	7.4506
Estonia	71.5	19.6	32.5	17,230	4,595	5,743	15.6466
Finland	122.5	110.1	113.2	59,925	15,980	19,975	n/a
France	108.3	98.8	101.2	53,566	14,284	17,855	n/a
Germany	103.1	122.5	117.7	62,303	16,614	20,768	n/a
Greece	89.4	51.0	60.6	32,093	8,558	10,698	n/a
Hungary	66.1	27.3	37.0	19,584	5,222	6,528	251.35
Ireland	124.5	121.5	122.3	64,721	17,259	21,574	n/a
Italy	103.9	71.3	79.5	42,082	11,222	14,027	n/a
Latvia	65.8	20.4	31.7	16,807	4,482	5,602	0.7001
Lithuania	59.6	16.9	27.6	14,597	3,893	4,866	3.4528
Luxembourg	112.4	138.0	131.6	69,687	18,583	23,229	n/a
Malta	73.3	47.8	54.2	28,679	7,648	9,560	n/a
Netherlands	103.4	128.0	121.9	64,521	17,206	21,507	n/a
Poland	63.7	24.9	34.6	18,329	4,888	6,110	3.7837
Portugal	84.6	46.8	56.2	29,771	7,939	9,924	n/a
Romania	61.5	14.7	26.4	13,980	3,728	4,660	3.3353
Slovakia	63.5	25.6	35.1	18,572	4,952	6,191	n/a
Slovenia	77.8	41.4	50.5	26,755	7,135	8,918	n/a
Spain	92.4	66.7	73.1	38,726	10,327	12,909	n/a
Sweden	117.3	112.4	113.6	60,153	16,041	20,051	9.2501
United Kingdom	110.3	140.4	132.9	70,337	18,757	23,446	0.68434
Norway	139	144.0	142.8	75,574	20,153	25,191	8.0165
Liechtenstein	*	*	*	*	*	*	*
Iceland	148	112.0	121.0	64,073	17,086	21,358	87.63

*) Data not available from Eurostat. The National Statistical Office of Liechtenstein will be contacted for data if required.

2006 data used for: Czech republic, Cyprus, Lithuania, Poland, Slovenia and Norway
2005 data or older used for Estonia, Greece and Iceland

The payment amounts are calculated on the basis of a daily rate of EUR 799 (7.5 hours) applicable to Finland and applying the country-specific index for obtaining the payment amounts for other countries.

¹ Updated by Decision of the Executive Director of 21 December 2011 (ECHA ED Decision No 35/2011) – applicable as of 1 January 2012