

Minutes of the 38th meeting of the Management Board

Held in Helsinki from 17 to 18 June 2015

I. Summary record of the proceedings

The Chair opened the meeting by welcoming the participants, in particular the nine newly appointed and the six reappointed Member State representatives, with mandates from 1 June 2015 to 31 May 2019. Their names and the names of other participants attending the meeting and the proxy votes of which the Chair was notified are listed in Section IV of these minutes.

1. Agenda (MB/A/02/2015 rev.01)

The Chair introduced the revised draft agenda and the room documents that were made available:

- Proposed correction to the draft minutes of the 37th Management Board meeting;
- Room document MB/RD/01/2015 related to agenda item 3bis of these minutes;
- Draft opinion on the Final Annual Accounts 2014, related to agenda item 5 of these minutes;
- Outcome of Commission's legal analysis concerning agenda item 11 of these minutes

The agenda of the meeting was adopted on this basis.

2. Declarations of specific interests

The Chair informed the members of the Management Board that she reviewed the members' declared conflicts of interests, together with the Secretariat, in accordance with ECHA's policy on conflicts of interests. No conflicts relating to the agenda of the 38th Management Board meeting were identified.

The Chair invited the members to further declare any specific interests that could not be drawn from their declarations of interests and which could be considered to be prejudicial to their independence with respect to any item on the agenda. No further specific interests were declared.

3. Minutes of the 37th Management Board meeting (MB/M/01/2015)

The draft minutes of the 37th Management Board meeting, held from 19 to 20 March 2015 in Helsinki, were approved subject to one correction (see corrigendum in the Annex V).

3bis. Administrative decision on staff matters (MB/RD/01/2015)

[In camera]

The Management Board took note of a report from the Chair and decided on this basis to close a pending administrative procedure related to staff appointed by the Management Board.

4. Quarterly report on ECHA's activities (MB/13/2015)

The Management Board heard the quarterly report on the Agency's activities and achievements since the last meeting, including the status of the work programme indicators.

The Executive Director highlighted the results for the most important indicators in the last quarter. The same indicators as those reported in March went beyond their target within the time frame: inquiries concluded, ECHA Helpdesk questions answered, final Board of Appeal decisions made and turnover of the Temporary and Contract Agents. Two indicators were below the target: the number of SME status checks completed on REACH registrants and the 3% percentage of export notifications processed beyond the legal deadline.

The Deputy Executive Director continued the report with details on ECHA's activities and achievements.

Board members congratulated ECHA for its achievements and held an exchange of views on the following topics:

- Notifications of substances in articles. The low number of notifications and the slow notification process were highlighted. Beyond ECHA's work in the past years on this, there is a plan for consultation with implementing and enforcement authorities next year, aiming to find a common agreement on steps forward.
- Dossier evaluation. Some Board members emphasised the importance of the new compliance check (CCH) strategy and its implementation for the next period. It was noted that after a workshop organised by ECHA¹ in May, there is much more clarity on how the new CCH strategy should be implemented in order to ensure more effective and impactful outcome.

A Commission representative remarked the low number of CCH reported in the second quarter. On this, the Secretariat highlighting ECHA's priority in reaching the annual target by the end of the year.

- Nanomaterials. Board members welcomed the progress made in this area and new nano-specific data² becoming publically available recently. The Secretariat

¹ ECHA Compliance Check Workshop on 19-20 May 2015

² OECD releases new data on nanomaterials: <http://echa.europa.eu/view-article/>

confirmed that ECHA is encouraging registrants to take this information into account for any necessary update of their registration dossiers.

The Secretariat will update the Management Board on the Agency's work plan 2016-2017 on nanomaterials - most probably in its December meeting. A "Plan B" shall be considered if the Commission will not progress with the REACH annexes' review in the meantime.

- The Secretariat will consider whether revocation decisions taken by the Executive Director after an appeal should become more visible on the ECHA website in case they could provide guidance of general nature to companies. It was also noted that a new search tool on Board of Appeal decisions was launched and decisions may be found by their case number³.
- PPORD⁴. It was clarified that in response to ECHA's enquiries and decisions, companies often take immediate action as needed, for example ceasing their PPORD activity or making a full registration.
- Substance evaluation – Board members discussed the progress made in this area.
- The statistics of ECHA's confidentially claim verification activity will be reported again when the work will resume using the new workflow in Dynamic Case.
- Transparency. Highlighting the importance of transparency in ECHA's processes, one Board member suggested that ECHA should have a "transparency" or a "third party" ambassador.
- Classification and Labelling, working towards more uniform notifications.
- Supporting activities for SMEs and 2018 registration deadline. The Agency's SME ambassador summarised his activities targeted to small and medium sized companies mentioning the most important ones since the last report in March.

The Management Board took note of the information. On behalf of the Board, the Chair congratulated the Agency for the remarkable work done and performance achieved since the last meeting.

5. Opinion of the Final Annual Accounts 2014 (MB/14/2015)

The Management Board received a presentation from the Executive Director on the final annual accounts of the Agency for 2014 as well as the Court of Auditor's observations thereon.

As in previous years, the Court of Auditors provided observations on the accounts and ECHA's financial management, highlighting that the "budget implementation rates for the year 2014 improved in comparison with the previous year". One remark made by the Court of Auditors concerned the expenditure for procedures associated with the implementation of the Biocidal Product Regulation (BPR) covering the Agency's related cost only for a small part: the fees collected in 2014 covered only 17% of this expenditure and the remaining part was in fact financed by contributions to the Agency's budget from the Union (6,3 million euro) and EFTA countries (0,2 million euro).

[/journal_content/title/oe.cd-releases-new-data-on-nanomaterials-registrants-asked-to-consider-the-information](#)

³ Document Library: <http://echa.europa.eu/en/web/guest/support/documents-library>

⁴ Process and Product related research and development

The Commission recognised the need for a continuing annual EU subsidy sufficient to cover most of ECHA's non-fee related tasks and has launched an independent study that should provide the necessary input to review the Fee Regulation, as foreseen by the BPR in 2015.

The Chair of the Working Group on Audit matters introduced afterwards the proposal for a Management Board opinion on the accounts, prepared on 16 June by the Working Group, after hearing the accounting officer and reviewing the preliminary observations from the Court of Auditors.

In line with the proposal prepared by the Working Group, the Management Board adopted its opinion on the final accounts, noting that the Court of Auditors made no reservations and confirming that the Board has obtained sufficient assurance to conclude that the said accounts, taken as a whole, represent a true and fair view of the implementation of ECHA's budget.

The Final Annual Accounts of the Agency, consolidated with those of the European Commission and together with the Agency's replies, will be published in the Official Journal of the European Union by 15 November 2015. The Board instructed the Executive Director to forward the documents on behalf of the Management Board to the Commission's Accounting Officer, the European Court of Auditors, the European Parliament and the Council by 1 July 2015.

6. Consequences of the General Court Judgement in case T-177/12 (MB/15/2015)

The Management Board continued its discussion on potential further consequences after the judgement of the General Court of 2 October 2014 in the case judgment T-177/12⁵ concerning the administrative charge levied in the context of the SME size verification.

The Management Board decided to revisit the issue in its next meeting on the basis of further consideration by the Secretariat and preparations by its Working Group on Planning and Reporting.

7. Budget (MB/16-17/2015)

7.1 First amending budget 2015 and transfers within the budget since last notification (MB/16/2015)

The Management Board received a proposal on the first amending budget 2015 and information on transfers within the budget since the last notification.

It was noted that the Agency no longer requires any subsidy for its REACH and CLP activities in 2015 as the higher fee revenue and reserve can finance the reduced expenditure.

The Management Board adopted the proposed first amending budget 2015, including the consequent changes to the procurement plan, and took note of the budget transfers carried out under the responsibility of the Executive Director.

The Board instructed the Executive Director to notify the decision to the Budgetary Authority, the Court of Auditors and the Commission and to publish the amended budget on ECHA's web page and in the Official Journal of the European Union. The revised procurement plan will also be published on the ECHA website.

⁵Spraylat GmbH v. ECHA

7.2 Update on budget 2016 (MB/17/2015)

The Management Board took note of the recent developments with respect to the 2016 budgetary procedure, in particular the Commission's proposed EU Draft Budget for 2016.

- For REACH/CLP and PIC, the budget appropriations and staff figures proposed by ECHA in the Preliminary Draft Budget (PDB) as adopted by the Management Board in March 2015 are in line with the ceilings accepted by the Commission.
- For Biocides, the proposed number of Temporary Agents (TAs) in ECHA's establishment plan posts was reduced from 42 to 36 and the EU balancing subsidy has been reduced from €5.4 to 5.0 million.

A discussion took place on the implication of the proposed reduction in the Biocides posts. The Secretariat's view was that the proposal to reduce the EU subsidy, while increasing fee revenue, without providing sufficient staff to handle this potential increase in workload represents a risk to ECHA in fulfilling its statutory mandates fully and effectively. Also, the present fee revenue trend indicates that the income will be higher in 2015, resulting in an increase in workload in 2016. After discussing with the Commission if additional staff would still be needed this year (e.g. triggered by additional IT work needed), the Secretariat will report back to the Board in September.

The Management Board reconfirmed its proposal for Biocides budget and staff for 2016 as approved in the March meeting and a communication thereof to the European Parliament and Council.

ECHA will contact the Commission over the summer to assess options for a 2015 budget amendment for Biocides and higher budget and staff in 2016 to respond to the needs of the market and Member State Competent Authorities.

8. Committees (MB/18-19/2015)

8.1 Appointment of Committee members (MB/18/2015)

The Management Board appointed four new nominees for the Committees for Risk Assessment (RAC) and Socio-Economic Analysis (SEAC) and renewed the three-year terms of two RAC members as proposed by the Secretariat (see Section III of these minutes for details).

With these new nominations, RAC has 44 members and SEAC 40 members. The names of the Committee members will be published on the ECHA website together with their declarations of interest.

Some Board members announced new nominees for RAC and SEAC which are under preparation in their countries. Considering the workload and the commitment required, they also informed about challenges in finding appropriate candidates for the ECHA Committees. In addition, finding experts with specific competences becomes even more difficult when the search has to be done outside their competent authorities.

The Deputy Executive Director informed that the screening of candidates of the recent public call⁶ for expression of interest for co-opted members for RAC and SEAC is ongoing. From the list of suitable candidates of this call, Member States will be invited to nominate candidates to regular membership of RAC and/or SEAC (i.e. without co-option).

⁶ ECHA is calling for co-opted members in RAC and SEAC: http://echa.europa.eu/view-article/-/journal_content/title/echa-is-calling-for-co-opted-members-in-rac-and-seac

8.2 Revised Rules of Procedures of the Committees for Risk Assessment and Socio-Economic Analysis (co-opted members) (MB/19/2015)

The Board members heard the proposal for revised Rules of Procedure (RoP) for RAC and SEAC, particularly concerning the following matters:

- Co-opted members' voting rights;
- Declaring potential conflicts of interests (concurrent employment), following the recommendation by CoIAC⁷;
- Voting threshold (for opinions only);
- Alignment with ECHA's principles and guidance on confidentiality;
- Additional revisions to improve clarity and consistency.

The Management Board approved revised Rules of Procedures of RAC and SEAC with minor clarifications⁸. The documents will be published.

9. Multi-annual Work Programme 2014-2018 (review of annexes) (MB/20/2015)

The Executive Director introduced the agenda item.

The Multi-annual Work Programme (MAWP) 2014-2018 was adopted by the Management Board in September 2013. At the time it was agreed that the annexes attached to the MAWP would be reviewed annually whereas the body of the text is in principle fixed for five years unless there are major changes to European Union policy affecting the Agency. A first update of the annexes was adopted by the Management Board in June 2014.

The three annexes to the work programme were reviewed and proposed to be amended as follows:

- Annex 1 - Milestones. Amendments were proposed for 2016-2018, mostly to provide further clarifications or to respond to strategically relevant requirements emerged during the past year
- Annex 2 - Multi-annual staffing plan. The staffing plan was updated to reflect the Multi annual staff policy plan 2016-2018 adopted by the Management Board in March 2015
- Annex 3 - Baseline figures were updated where considered necessary

The Executive Director's presentation was followed by an exchange of views and clarifications on application for authorisation, union Biocides authorisations and additional posts allocated in 2018, testing proposals re-examined in 2016, ECHA becoming a hub for excellence in regulatory science and addition of post in Biocides foreseen to be fee-financed and not through subsidies, in 2017 and 2018.

A Commission representative made comments/suggestion in relation to the target for full compliance checks and lessons learned from the applications for authorisation. The

⁷ CoIAC - ECHA's independent Conflicts of Interest Advisory Committee
Revised Rules of Procedures of the Committees for Risk Assessment and Socio-Economic Analysis (co-opted members)

⁸ In particular for Article 9, paragraph 3: *"Members, who are concurrently employed by a Member State Competent Authority or an entity delegated by it submitting a proposal or a dossier to the Committee for adoption and who have not been involved in its preparation shall declare a potential conflict of interest. They shall not participate in any voting on the relevant agenda point, but may have their opinion recorded in the minutes"*.

Secretariat will reflect on the comments made and consider proposing modifications next year.

The Management Board adopted revised annexes of the MAWP 2014-2018 on the annual milestones, the staff resources and the baseline numbers. The Board valued that the revision leaves the core text of the programme and its ambition unchanged, thereby putting more emphasis on efficiency to manage the scheduled staff cuts for ECHA as EU Agency.

10. Board of Appeal (MB/21-25/2015)

10.1 Update on BoA issues (MB/21/2015)

[In camera]

The Management Board took note of a report from the Chair and the Working Group on the Board of Appeal (MBWG BoA) and held an informative exchange of views on ongoing matters related to the Management Board's role as appointing authority for the Board of Appeal members. It was concluded that the Chair should submit proposals for action by the Management Board by written procedure as needed.

10.2 Review of the structure of BoA (MB/22/2015)

The MBWG BoA presented its findings in relation to the scheduled review of the structure of the Board of Appeal (BoA). Considering the current workload and a trend of increasing appeal numbers, the MBWG concluded that the current structure, involving three full-time BoA members employed as Agency staff, appears to be the most cost efficient structure possible for best guaranteeing consistency and a high quality of the appeal decisions.

In this context the Management Board was also informed of the Commission's intention to reinforce the organisational independence of the Registry of the Board of Appeal through a revision of the Commission Regulation, which lays down the rules of organisation and procedure for the BoA⁹. This should be accompanied by measures taken by the Executive Director in form of delegation of powers. In anticipation of this change to the Commission Regulation, the MBWG BoA and the ECHA Secretariat started to develop the necessary implementing measures at Agency level, including revised administrative arrangements which guarantee the independence of the Registry and were first adopted in 2009. The Management Board will receive proposals in this regard at a future meeting so that the changes can be effectively implemented once the Commission has adopted its revised implementing act.

The Management Board agreed with the MBWGs assessment regarding the structure of the BoA and decided to maintain the current model. It was noted that the Management Board could revisit this decision, as needed, but that no timeframe for a next review needs to be fixed in advance.

10.3 Prolongations of BoA mandates (MB/23/2015)

On the basis of an assessment done by the MBWG BoA, the Management Board decided on the prolongation of the initial mandate of one full-time and three alternate and additional Board of Appeal members for a second term of office of five years, starting from the end of their respective mandates (see Section 3 for details).

⁹ Regulation (EC) No 771/2008

10.4 Annual reports (MB/24-25/2015)

A. BoA Chairman

The Chairman of BoA presented her annual report on the work of BoA during the reporting period covering June 2014 to June 2015.

The Chairman reported on the elevated number of appeal cases currently under examination, including the first ones on biocides and substance evaluation, requiring higher efficiency and effectiveness and stability of the operation of the BoA.

Since the last report to the Board in June 2014, 24 new appeals have been lodged and 11 cases were closed with a final decision. 10 intervention decisions, 3 confidentiality decisions and 17 decisions on stay of proceedings were also issued. The number of communications from the Registry to the parties was 525. To date no BoA decisions have been taken before the General Court by unsuccessful appellants. With regard to the duration of appeals, the BoA has set a performance indicator to adopt the decision in an appeal case within 90 working days of the closure of the written or oral procedure, although there is no legal deadline for deciding on appeals. In the reporting period all cases have been decided within this time. During the reporting period, the longest time spent in the processing of an appeal has been 17 months.

For BoA, the increasing number of appeals is an indicator of the trust of stakeholders in the appeal system. BoA's decisions¹⁰ are widely recognised as being highly competent reviews of complex legal and scientific issues and received an overwhelming positive response from stakeholders, including appellants losing their cases.

While striving, as the rest of ECHA, to increase efficiency (e.g. reducing the number of appeals by encouraging joint appeals by multiple registrants), the Chairman of BoA gave a clear message to the Board and the ECHA Secretariat, that more support will be needed in the future.

The Chairman mentioned the need for a period of stability for BoA and for a reinforced organisation through reviewed Rules of Procedure by the Commission and changes in the administrative arrangements signed with the Executive Director. She informed the Management Board that since its creation in 2009 the BoA has steadily seen a staff reduction in its supporting administrative unit (the Registry). The Chairman continued explaining that the appeals team is a small organisational entity, with limited capacity to cover absences, and that the BoA won't in her opinion be able to function smoothly with further reductions. The Chairman asked the MB to guarantee the necessary resources to process the appeals at a satisfactory rate. In particular she asked that any staff arrangements and other organisational changes affecting the BoA work should be agreed by the Management Board on the basis of preparations by its specialised Working Group.

The Chairman therefore called for a speedy adoption of the revised Rules of Procedure for the BoA by the Commission and quick further implementation by the Management Board with the support of its specialised Working Group. She observed that too much time is spent on non-case related issues whilst BoA needs stability to deliver high quality decisions.

The Chairman shared also some personal reflections with the Management Board as regards the smooth running of the BoA and the challenges linked with the application of the EU Staff Regulations and its implementing acts for BoA members, calling on the Management Board to give under all circumstances clear priority to ensuring the operational work of the BoA.

¹⁰ BoA decisions/summary decisions available on ECHA website (by selecting "all decisions" or using the search tool): <http://echa.europa.eu/about-us/who-we-are/board-of-appeal/decisions>

Finally, the Chairman expressed her recognition for the excellent and professional work performed by the Registrar in supporting the appeals work.

Board members thanked the Chairman of BoA for the comprehensive report and sharing her reflections with the Board. Several members expressed their confidence in and full support to the Chair and through her the BoA as regards the quality of their work and conduct and encourage them to continue in the same line. The Executive Director confirmed that BoA will be the only one body of ECHA were staff-cuts are not foreseen for the coming years and that no reductions have been applied in the last years.

The Management Board took note of the annual report of BoA and praised the high quality decisions delivered, having a positive impact on ECHA's reputation and contributing to the implementation of REACH and Biocidal Products Regulation.

B. Working Group BoA

The Working Group on the BoA (MBWG BoA) gave the annual report on activities and deliverables in 2014, introducing also the new composition of the Group. The activities undertaken in the previous year were mainly touching on administrative, organisational and staff matters (annual performance appraisal, selection of new BoA members), the review of the structure of the BoA and the status of its Registry.

The Management Board took note of the report and the MBWG BoA received the Board's appreciation for the work done.

10.5 Report on the implementation of BoA decisions

The Head of ECHA Legal Affairs Unit presented the follow-up of appeal decisions, explaining the ways in which decisions have caused ECHA to change and improve administrative procedures, explain instructions more clearly on the website, improve the decision drafting and templates and justify Agency decisions more thoroughly.

One Board member suggested reflecting on a possible (annual) written report on the implementation of BoA decisions - similar to the one presented by the Chairman of BoA.

The Management Board took note of the report.

11. Improved Substance Identity check as part of the Technical Completeness Check process (MB/26/2015)

Following conclusions reached in previous meetings, the Management Board received a final concept for improving the completeness check process under the REACH Regulation. A review of this process was foreseen in the ECHA Work Programme for 2014 and undertaken accordingly. The review aimed to address whether more information should be verified and/or whether the information in the dossier should be presented differently.

As a result, the Board endorsed an approach for improving the level of substance identity information in registration dossiers¹¹ in December 2014. For two important elements, the possibility of a manual verification step and the applicability of new automated rules on updates of registration dossiers the Commission was asked to provide its legal opinion on the general feasibility and applicability.

The Commission representatives confirmed that the planned checks are indeed within the scope of the completeness check and can apply to any part of the updated

¹¹ Document MB/53/2014

dossiers¹² submitted by registrants as long it is reasonable and necessary for the protection of the aims of REACH. ECHA may also invalidate registration numbers in well justified cases.

The Board also heard the Secretariat's assessment regarding costs and benefits. Under certain conditions - cost calculated based on interim salaries and a moderate number of 2018 registrations -the benefits are expected to outweigh drawbacks by the improvements on dossier quality and more focused work in compliance checks. Should the volume be higher, either the level of verification will go down, or the costs could be substantially higher.

At the same time, the Executive Director highlighted that the availability of sufficient revenue will be crucial, in particular since the resource impact of other aspects of the technical completeness check revision is not yet fully established

After an informed exchange of views, the Management Board endorsed the implementation of changes to the completeness check routine for incoming REACH registration dossiers, including their updates, in particular involving a manual plausibility check to be performed by the Secretariat for selected information, foremost Substance Identity Information.

12. Points for decision without discussion (MB/27-28/2015)

12.1 Implementing Rules to the EU Staff Regulations, incl. whistleblowing guidelines (MB/27/2015)

The Management Board members adopted a 5th cluster of Implementing Rules for further effect to the Staff Regulations and Conditions of Employment of Other Servants which contained the:

- Model rules for EU Agencies on performance appraisal of temporary agents and contract agents
- Model rules for EU Agencies on the engagement and use of Temporary Agents
- ECHA's guidelines on whistleblowing

12.2 Composition of Working Groups (MB/28/2015)

The Board members agreed on the new composition of its working groups (subgroups), based on the interests in membership submitted by the new members. (See Section III of these minutes for details).

13. Points for information

13.1 Report from the Working Group on Audit matters

The Chair of the Working Group on Audit (MBWG Audit) presented a comprehensive report from the Working Group meeting of 16 June 2015, particularly on: ECHA accounts 2014, IAC annual report and the independent external validation of IAC, IAS audit on revenue, audits undertaken in 2015, progress and status of ECHA's building project, change in the IT outsourcing model, secure CIRCABC.

The Chair of the MBWG Audit highlighted in particular findings of the Secretariat following a high level analysis of the security and business continuity risks related to ECHA data centre outsourcing operations (assessment conducted by external

¹² Article 22 of REACH

contractor). The MBWG welcomed the action plan to address the findings and asked ECHA to analyse if any identified shortcomings must lead to any further consequences.

The Management Board took note of the information.

13.2 Authorisation outlook 2016-2018

The Board took note of the accomplishments and state of play of the authorisation process, noting the constant dialogue with industry and NGOs that further improves the applications process so that it is efficient, transparent, trustworthy and predictable.

Since 2012, ECHA received 28 applications for authorisation from 44 applicants, for 9 substances and 56 uses and all opinions were so far issued on time. Commission has decided on four applications. For about half of the Annex XIV¹³ substances, no applications have arrived and about half are 'bridging applications' awaiting the development (feasibility) of alternatives.

Regarding new substances added to the authorisation list, at this point in time the Commission decided to await the results of their work to streamline the processes, and not to add any substances to Annex XIV. It was explained that this decision has a direct impact on the workload and revenue for ECHA in the coming years, leading according to current predictions to no new authorisation applications in 2018.

Acknowledging the big challenges brought by such a complex and novel process to ECHA and the Commission, Board members welcomed the important message that the authorisation process works. The Board encouraged the Secretariat to remain open to discussions with all interested parties in the authorisation process for its further improvement.

The Management Board acknowledged also the need for ECHA to maintain sufficient administrative and scientific capacity to fulfil its mandate under authorisation and noted with concern that the current state of Annex XIV amendments does not guarantee that.

Two Board members referred to recent initiatives from NGOs related to the weighing of alternatives in an authorisation procedure that require discussion in an appropriate forum, possibly with NGOs. It was also emphasised that ECHA should maintain the established open dialogue and interaction with public health and environment NGOs.

The Management Board took note of the report.

13.3 Discharge for the financial year 2013 (*ECHA A(2015)3129*)

The favourable discharge resolution for the Executive Director concerning the financial year 2013 was presented. On the request of a member it was explained that the follow-up report to Parliaments discharge recommendations will be presented to the Management Board in December 2015.

A Board member appointed by the European Commission to represent interested parties proposed to discuss observations made by the European Parliament in relation to the operation of REACH processes in the next Management Board meeting.

¹³Annex XIV of REACH - List of substances subject to authorisation

14. Any other business

Written consultation on the draft Work Programme 2016

The written consultation on the draft Work Programme for 2016 will be launched shortly after the meeting. The Working Group on Planning and Reporting will review the comments from the members on early September and prepare a proposal for the Management Board's adoption in the September Management Board meeting.

Progress Report Implementation of the Common Approach on EU Decentralised Agencies

A Commission progress report on the issue was noted by the meeting.

Annual appraisal exercise for BoA members and the Executive Director

The conclusion of the annual appraisal exercises for the Executive Director and two members of the Board of Appeal were notified with no issues of concern to be brought to the attention of the Management Board.

Next meeting and closure

The Chair informed that the next Board meeting will be held from 24 to 25 September 2015, in Luxembourg, on invitation by the upcoming Luxembourgish European Union Presidency.

II. Documents submitted to the Management Board

Draft agenda	MB/A/02/2015 rev.01
Draft minutes of the 37 th Management Board meeting	MB/M/01/2015
Administrative decision on staff matters	MB/RD/01/2015
Quarterly report on ECHA's activities	MB/13/2015
Opinion of the Final Annual Accounts 2014	MB/14/2015
Consequences of the General Court Judgement in case T-177/12	MB/15/2015
Budget	
First amending budget 2015 and transfers within the budget since last notification	MB/16/2015
Update of budget 2016	MB/17/2015
Committees	
Appointment of Committee members	MB/18/2015
Revised Rules of Procedures of the Committees for Risk Assessment and Socio-Economic Analysis (co-opted members)	MB/19/2015
Multi-annual Work Programme 2014-2018 (review of annexes)	MB/20/2015
Board of Appeal (BoA)	-
Update on BoA issues	MB/21/2015
Review of the structure of BoA	MB/22/2015
Prolongations of BoA mandates	MB/23/2015
Annual reports	-
BoA Chairman	MB/24/2015
Working Group BoA	MB/25/2015
Report on the implementation of BoA decisions	-
Improved Substance Identity check as part of the Technical Completeness Check process	MB/26/2015
Implementing Rules to the EU Staff Regulations, incl. whistleblowing guidelines	MB/27/2015
Composition of Working Groups	MB/28/2015
Report from the Working Group on Audit matters	-
Authorisation outlook 2016-2018	-
Discharge for the financial year 2013	ECHA A(2015)3129

III. Decision taken/Conclusions reached by the Management Board

The Management Board:

- Adopted the revised agenda for its 38th meeting.
- Approved the minutes of its 37th meeting with one modification.
- Decided to close an administrative procedure related to staff matters without further action.
- Adopted updated Annexes to the Agency's Multi-annual Work Programme 2014-2018 as contained in the Annexes of document MB/17/2014 final of 18 June 2014.
- Adopted its opinion on the ECHA final accounts for 2014 and instructed the Executive Director to forward it together with the final accounts to the Commission's Accounting Officer, the European Court of Auditors, the European Parliament and the Council by 1 July 2015.
- Adopted a first amending budget for the year 2015 and the consequent changes to the procurement plan and instructed the Executive Director to notify this decision to the Budgetary Authority, the Court of Auditors and the Commission and ensure that the amended budget is published on ECHA's web page and in the Official Journal of the European Union.
- Appointed new members for the Risk Assessment (RAC) and Socio-Economic Analysis Committees (SEAC) and renewed the three-year terms of Committee members as follows:

New RAC member:

Denmark TOBIASSEN Lea Stine

New SEAC members:

Netherlands LUIT Richard
Poland RYDLEWSKA-LISZKOWSKA Izabela
Romania OLTEANU Maria

Renewal of RAC memberships:

<u>MS</u>	<u>RAC member</u>	<u>Expiry date of the current 3-years term</u>
France	COPIN Stéphanie	13 December 2015
Portugal	CARVALHO Joao	27 September 2015

- Adopted revised Rules of Procedures for RAC and SEAC with some clarifications.
- Decided to maintain the current structure of Board of Appeal.

- Decided on the prolongation of the initial mandate of four Board of Appeal members for a second term of office of five years:

Andrew FASEY	TQM	From 29 Feb 2016
Christoph BARTOS	AltChair	From 14 Oct 2015
Ioannis DIMITRAKOPOULOS	AltChair	From 14 Oct 2015
Christopher HUGHES	AltChair	From 14 Oct 2015

- Endorsed the improved Substance Identity check as part of the technical Completeness Check process.
- Adopted the following Implementing Rules to the EU Staff Regulations:
 - o Model rules for EU Agencies on performance appraisal of temporary agents and contract agents
 - o Model rules for EU Agencies on the engagement and use of Temporary Agents
 - o ECHA's guidelines on whistleblowing
- Decided the new composition of its working groups:

Working Group on Planning and Reporting

1. Mr Karel BLAHA (Chair) (September 2014)
2. Mr Thomas JAKL (September 2012)
3. Mr Antti PELTOMÄKI¹⁴ (March 2012)
4. Mr Kęstutis SADAUSKAS¹⁵ (December 2014)
5. Ms Sharon MCGUINNESS (September 2014)
6. Ms Simona FAJFAR (September 2014)
7. Mr Jörg LEBSANFT (June 2015)

Working Group on the Board of Appeal

1. Ms Ana FRESNO (April 2009)
2. Mr Kęstutis SADAUSKAS¹⁶ (December 2014)
3. Ms Catherine MIR (June 2014)
4. Ms Luminița TÎRCHILĂ (June 2014)
5. Mr Antonello LAPALORCIA (June 2015)
6. Ms Miroslava BAJANIKOVA (June 2015)

¹⁴ European Commission

¹⁵ European Commission

¹⁶ European Commission

Advisory group on the dissemination of public information on chemical substances

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| 1. Mr Antonello LAPALORCIA (Chair) | (September 2009) |
| 2. Mr Martin FÜHR ¹⁷ | (September 2009) |
| 3. Mr Keşütis SADAUSKAS ¹⁸ | (December 2014) |
| 4. Ms Gertraud LAUBER ¹⁹ | (December 2011) |
| 5. Mr Hubert MANDERY ²⁰ | (June 2010) |
| 6. Mr Antti PELTOMÄKI ²¹ | (June 2013) |
| 7. Mr Anastassios YIANNAKI | (June 2015) |

Working Group on the transfer of fees

- | | |
|-------------------------------------|--------------|
| 1. Mr Antonello LAPALORCIA | (June 2010) |
| 2. Ms Luminița TÎRCHILĂ | (March 2014) |
| 3. Mr Antti PELTOMÄKI ²² | (March 2012) |
| 4. Mr Keith BAILEY | (June 2015) |
| 5. Ms Parvoleta LULEVA | (June 2015) |
| 6. Ms Anne-France RIHOUX | (June 2015) |

List of agreed follow-up actions:

- N/A

¹⁷ Ex officio

¹⁸ European Commission

¹⁹ Ex officio

²⁰ Ex officio

²¹ European Commission

²² European Commission

IV. List of Attendees

Representatives of the Member States

Thomas JAKL	(AT)
Anne-France RIHOUX *	(BE)
Parvoleta LULEVA *	(BG)
Anastassios YIANNAKI **	(CY)
Karel BLÁHA	(CZ)
Bojan VIDOVIC	(HR)
Jörg LEBSANFT *	(DE)
Henrik Søren LARSEN **	(DK)
Aive TELLING **	(EE)
Kassandra DIMITRIOU **	(EL)
Ana FRESNO RUIZ	(ES)
Pirkko KIVELÄ	(FI)
Catherine MIR	(FR)
Krisztina Klára BIRÓ	(HU)
Sharon McGUINNESS	(IE)
Antonello LAPALORCIA	(IT)
Judīte DIPĀNE *	(LV)
Marija TERIOŠINA **	(LT)
Paul RASQUE	(LU)
Edward XUEREB *	(MT)
Jan Karel KWISTHOUT	(NL)
Lidia Longina WAŚOWICZ *	(PL)
Ana Lília MARTINS *	(PT)
Liliana Luminița TÎRCHILĂ **	(RO)
Nina CROMNIER	(SE)
Simona FAJFAR	(SI)
Miroslava BAJANÍKOVÁ *	(SK)
Keith BAILEY *	(UK)

Representatives of the European Commission

Antti PELTOMÄKI
Kęstutis SADAUSKAS Also acting as proxy of Krzysztof MARUSZEWSKI on
17 June
Krzysztof MARUSZEWSKI

Independent persons appointed by the European Parliament

Anne LAPERROUZE

* New appointed members of the Management Board for a first term of office running from 1 June 2015 to 31 May 2019

** Appointed members of the Management Board for a second term of office running from 1 June 2015 to 31 May 2019

Representatives from interested parties appointed by the European Commission

Martin FÜHR (University of Darmstadt - Environment Health and Consumer NGOs)

Observers from EEA/EFTA countries

Sigurbjörg SÆMUNDSDÓTTIR (IS)

Other Observers

Björn HANSEN European Commission
Mehdi HOCINE European Commission
Guy THIRAN On behalf of Hubert MANDERY
Mona AARHUS (NO)
Michał ANDRIJEWSKI (PL)

ECHA staff

Geert DANCET (Executive Director)
Jukka MALM (Deputy Executive Director)
Andreas HERDINA (Director of Cooperation)
Jack DE BRUIJN (Director of Risk Management)
Christel MUSSET (Director of Registration)
Leena YLÄ-MONONEN (Director of Evaluation)
Luisa CONSOLINI (Director of Information Systems)
Shay O'MALLEY (Director of Resources)
Minna HEIKKILÄ (Head of Unit, Legal Affairs)
Lindsay JACKSON (Head of Unit, Communications)
Wim DE COEN (Head of Unit, Executive Office)
Frank BÜCHLER (Executive Office)
Viorica NAGHY (Executive Office)

(Staff attending specific agenda items)

Mercedes ORTUÑO (Chairman of the Board of Appeal)
Sari HAUKKA (Registrar, Registry of the Board of Appeal)
John WICKHAM (Accounting Officer)
Derek KNIGHT (Senior Scientific Advisor)
Pilar RODRIGUEZ IGLESIAS (Head of Unit, Committees Secretariat)
Tuula HAKALA (Head of Unit, Finance)
Eric RIEGER (Human Resources Officer)

V. Corrigendum to the minutes of the 37th Management Board

1. **Agenda item 10.2 *Remuneration of Co-opted Members for RAC and SEAC, the 3rd paragraph:***

The main concerns raised were: remuneration of co-opted members - which might cause a fall of the current members due to differences in payments, the relatively short-term need for additional members (peak in applications for authorisation through 2015 and 2016) **whether it was appropriate for co-opted members to be sole rapporteurs** and the general implications of involving experts from the private sector.