

**MINUTES OF THE 28<sup>th</sup> MEETING OF  
THE MANAGEMENT BOARD**

**13-14 December 2012**

## **I. Documents submitted to the Management Board**

Draft agenda	<i>(MB/A/04/2012 rev)</i>
Draft minutes of the 27 <sup>th</sup> Management Board meeting	<i>(MB/M/03/2012)</i>
Report of the Executive Director	<i>(MB/52/2012)</i>
3 <sup>rd</sup> Amending Budget 2012	<i>(MB/53/2012)</i>
Transfers within the budget	<i>(MB/54/2012)</i>
Report on Written Procedure	<i>(MB/WP/04/2012)</i>
Budget and Establishment Plan for 2013	<i>(MB/55/2012 part I)</i>
Biocides - constraints, consequences and options for additional funding	<i>(MB/55/2012 part II)</i>
Continuation of the cash reserve management agreement	<i>(MB/56/2012)</i>
Work programme 2013, update of Annexes	<i>(MB/57/2012)</i>
Report from the working group on planning and reporting – quality of registration dossiers	<i>(MB/58/2012)</i>
Management of potential conflicts of interest - update on implementation of the ECHA policy	<i>(MB/59/2012)</i>
Security Model of the Agency's IT-systems and unified Security Declaration for access to the IT systems	<i>(MB/60/2012 rev.01)</i>
Appointment of Committee members	<i>(MB/61/2012)</i>
Operating framework of the Management Board	<i>(MB/62/2012)</i>
Composition of the subgroups of the Management Board	<i>(MB/63/2012)</i>
Structure and composition of the Board of Appeal	<i>(MB/64/2012)</i>
Readiness for the 2 <sup>nd</sup> registration deadline under REACH (May 2013)	<i>(MB/65/2012)</i>
Establishment of a Day Care Centre within the Agency	<i>(MB/66/2012)</i>
Joint Statement of three institutions on the Common approach on regulatory agencies	<i>(MB/67/2012)</i>
Participation of Serbia in the work of the Forum	<i>(MB/68/2012)</i>

## **II. Summary Record of the Proceedings**

### *Introductory remarks*

The Chair opened the meeting by welcoming the participants.

She informed the Management Board of the pending appointment decisions related to the replacements of Eskil THUESEN (DK) and Ionut GEORGESCU (RO).

She introduced the observers attending the meeting and provided information on the proxy votes of which she had been notified (details are listed in section IV of these minutes).

During the meeting, the Management Board bid farewell to Elke ANKLAM who was to move to another post in the European Commission and for this reason was leaving the Board. Mr Krzysztof MARUSZEWSKI, her successor as Director of the Commission's Joint Research Centre IHCP, would represent the JRC in the Board in future.

### **1. Agenda (MB/A/04/2012 rev)**

The Chair introduced the room documents that had been made available.

On this basis, the agenda was adopted without changes.

### **2. Declarations of specific interests**

Further to a request for declarations, no conflicts of interest were declared by the Board members present with regard to the agenda items of the meeting.

### **3. Minutes (MB/M/03/2012)**

The draft minutes of the meeting on 27-28 September 2012 were approved with two amendments (see corrigendum in the annex).

The Chair mentioned the list of follow-up actions from the previous meeting. An overview of 2013 events involving the Member States was presented to the Board as a room document. The other follow-up issues were pending.

### **4. Report of the Executive Director (MB/52/2012)**

The Board heard the Executive Director's quarterly report on the Agency's central achievements and important developments. The report included information on the follow-up of a recent NGO report on ECHA's role in the implementation of the REACH Regulation. The Board was also informed of a cooperation agreement between ECHA and the JRC that was signed on the meeting day.

The following exchange of views focused i.a. on activities related to the registration of chemicals, for example, modalities for updating registration dossiers, the functioning of the technical completeness check tool or the number of pre-registrations for the 2013 deadline. Other interventions concerned progress in the area of the dissemination of chemical data and the number of assessed confidentiality claims from companies. Further discussion topics addressed included the ECHA PBT working group and the extension of its remit to biocides,

the 2020 road map for SVHCs, the possibilities and limitations for targeting substance evaluations performed by Member States and the targeted compliance check strategy applied by ECHA. Finally, some members wished already to have a comparison between planned and executed actions in 2012.

The Executive Director and the ECHA management team responded to the questions raised. As regards overall activities in 2012 and the implementation of the work programme, the Executive Director referred to the regular general report under REACH which would be presented to the Management Board in March 2013 and would provide the full overview.

The Board took note of the information provided.

## **5. Budget 2012 (MB/53/2012, MB/54/2012, MB/WP/04/2012)**

The Director for Resources presented to the Board a proposal for a third amending budget for 2012 and informed the Board of the latest budget transfers carried out under the responsibility of the Executive Director. He explained that the regular review of the budget implementation resulted in a possibility to decrease the budgeted expenditure for 2012 by €9.1 million to a total of €98.45 million. The decreased amount would be added to the reserve and thus contribute to financing subsequent budget years.

The amending budget included a reduction related to the payment modalities of the employee pension contributions for staff. Since ECHA had received an EU subsidy since mid 2012, the Secretariat considered these contributions to be covered by the EU budget instead of that of ECHA. At the time of the meeting, the Commission had not established a final position on this issue; the Commission representatives present therefore formally maintained a reserve and promised to clarify the matter in early 2013.

Some technical clarifications were made regarding budget transfers and carry-overs.

The Board adopted a third amending budget for 2012.

The Board took note of the budgetary transfers and the outcome of the written procedure MB/WP/04/2012, which related to budgetary transfers within the Biocides and PIC budgets.

## **6. Budget and Establishment Plan for 2013 (MB/55/2012 part I)**

The Executive Director introduced the proposal for ECHA's budget for 2013 and the establishment plan. The proposed budget amounted to a total of € 106.6 million and was significantly lower than the preliminary draft budget which amounted to € 117.4 million.

The entirety of the Agency's budget in 2013 necessary for carrying out tasks under the REACH and CLP Regulations would be funded through own fee income: from the expected new fee income linked to registrations and authorisations, and balanced from the accumulated cash reserve of the fees of the first registration deadline. The total REACH and CLP expenditure budget amounted to € 98.8 million. The number of temporary agents (TA) was envisaged to decrease from 456 to 451.

On the expenditure side, the Executive Director explained that an increase of 6.8% was foreseen in Title 1 (Staff) for REACH and CLP related staff costs, covering also a potential retroactive salary increase for the years 2011 and 2012 but excluding the employer's part of the pension contribution.

For Title 2 (Building, equipment and miscellaneous), the 2013 budget increased by 15.8%, taking into account rental and other operating costs of the offices, hosting services for the Agency's ICT infrastructure and renovation works.

The operational expenditure (Titles 3-5) supported the implementation of ECHA's Work Programme for 2013 and was to increase by 12% as compared to 2012. The main increase was anticipated for IT support, covering also maintenance and license costs postponed from 2012 in order to respect of the principle of annuality.

For Biocides and PIC, the funding was foreseen to derive mainly from the EU subsidy. The amounts foreseen were € 6.07 million and € 1.56 million, respectively, and subject to adoption of the EU budget by the Council and the European Parliament. A further amount of € 150 000 was estimated to be cashed by the year end from biocides fees.

Regarding staffing, 47 TAs (compared with 11 in 2012) were foreseen in the establishment plan for Biocides and 5 TAs (compared with 3 in 2012) for PIC. The first full year of the activity would entail an increase in the staffing expenditure from €0.9 million to €3.7 million under Biocides, and from € 73 000 to € 505 000 under PIC.

The presentation was followed by an exchange of views. Board members requested information about the Agency's cash reserve from both the 2010 and 2013 registration deadlines and the correlation between staff numbers and funding of REACH and CLP activities.

A Commission representative clarified that the Commission agreed with the proposal in general. As the Commission position regarding the employer's part of pension contributions had not yet been finalised, the corresponding part of the meeting document<sup>1</sup> would be adjusted if necessary.

The Executive Director replied to the requests made, clarifying some figures and planned investments. Regarding the cash reserve, he explained that the Agency had already received more revenue from early registrations for the 2013 deadline than originally foreseen and therefore now anticipated a lower amount of fee revenue from registrations in 2013. The existing cash reserve was divided between the European Investment Bank, the Finnish central bank and a commercial bank.

He reminded the meeting that the budget for REACH and CLP was separated from the Biocides and the PIC budgets. Costs and resources were allocated according to the different legislations, and synergies were sought in all tasks where this was possible. He further highlighted that agencies, such as ECHA, with mixed financing from both fees and EU subsidies would potentially benefit from a ring-fenced cash reserve in the future, as proposed in the Joint Statement of the European Parliament, the Council of the European Union and European Commission on decentralised Agencies.

The Management Board adopted the Agency's budget for 2013 including the establishment plan. The budget was to become final following the final adoption of the general budget of the European Union.

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<sup>1</sup> MB/55/2012 part I, p. 2. (...) On the other hand, the Agency has adjusted its earlier draft budget by excluding the employer's part of the pension contribution ***following the recent Commission position.***

## **7. Biocides - constraints, consequences and options for additional funding (MB/55/2012 part II)**

The floor was given to the Director of Regulatory Affairs, who explained the concerns of the ECHA management in relation to the preparation for new tasks under the Biocidal Product Regulation.

The original planning was based on a € 9.27 million budget for 2013, assuming € 3.3 million revenues from fees. The current estimate was a € 6.07 million subsidy, excluding also any subsidy from EFTA countries, and € 150 000 fee income. The budget reduction would mean a significant cut in staffing: equating altogether to 29 staff at the end of 2013 instead of 47 approved posts. This would lead to significant delays in IT development and the postponement of many supporting tasks. In such a case, ECHA would need to ask the Commission to keep the JRC involved in biocides work for a longer period than foreseen in the legislation, for, *inter alia*, the review program. He then explained the need for a minimum of € 1 million additional funding to secure sufficient staff to deploy IT and other operational capacities. For that purpose, he also presented options for the additional funding, such as a service level agreement with the Commission, temporary coverage from the REACH reserve or an increase in the subsidy via a budget amendment. It would however be critical that any budget increase would be executed early in the year as recruitment always had a built-in delay, he explained, and called on the Commission to assist the Executive Director in finding a suitable solution that could be submitted to the Board by written procedure.

The Board shared the Agency's concerns related to adequate financing of biocides tasks and pointed out the urgency of the situation, as the Regulation would enter into operation on 1 September 2013. Members strongly supported the proposed mandate for the Executive Director to find a timely solution in cooperation with the Commission. The Board also agreed that the Chair would support the Executive Director in this endeavour.

In case the additional financing of one million euro would not materialise, Board members asked the Agency for a contingency plan and a prioritising of biocides-related activities. The representative from Norway agreed that a contribution of the EEA countries was at this point in time not certain but promised accelerated efforts to seek rapid approval of the regulation by the country's Parliament as his country wished to continue to work together with the EU on biocides.

A Commission representative pointed out that the Commission also shared the Agency's concerns and was working on a solution.

The Executive Director replied that the document already identified contingency measures in case no solution could be found and that the time to act was short now, especially regarding new recruitments. ECHA had already gained synergies between REACH, CLP and Biocides in the field of IT development and could eventually use internal mobility to support biocides-related tasks. He also welcomed the initiative of Norway, which he invited also to consider a voluntary contribution to ECHA in advance of any later subsidy. Furthermore, he thanked the Board for their support and the mandate given to him and the Chair.

The Chair concluded that a solution should be found as early as possible and called on the Commission services represented in the Board to assist the Executive Director in finding a sound solution. This would respond to the concerns and risks identified and enable the Board to increase the budget for biocides activities by written procedure early in 2013.

The Management Board took note of the item. It mandated the Executive Director, with the support of the Chair, to continue the discussions with the Commission.

**8. Continuation of the cash reserve management agreement  
(MB/56/2012)**

The Director for Resources informed the Board about the continuation of the Agency's cash reserve management with the European Investment Bank (EIB). The Board had endorsed this approach in December 2010, and €150 million cash reserve from the first registration deadline had been transferred for management by the EIB. The fund had already generated € 5.3 million revenue. At the moment, the latest bond maturity would fall in March 2014 but the accountant had the opportunity to propose the reinvestment of some of the maturing bonds should the cash situation and outlook permit it. The new Accounting Officer Mr. John Wickham nominated by the Board in September was present for this point.

The Management Board noted the positive experience with the cash reserve management under the current agreement and endorsed the ECHA Secretariat's intention to continue with the asset management agreement with the European Investment Bank. The Secretariat would report back to the Board on a possible further continuation after two years.

**9. Work programme 2013, update of Annexes  
(MB/57/2012)**

The Director for Resources presented two updated annexes of the Work Programme 2013, relating to resources and procurement. The Work Programme had already been adopted by the Board in September 2012 and the annexes needed now to be updated in light of the finalisation of the budgetary procedure.

A room document was provided to the meeting with an updated resource annex. After a request for clarification and modification, a final version of that annex was presented to the Board.

The Board adopted the two annexes of the Work programme 2013.

**10. Report from the working group on planning and reporting –  
quality of registration dossiers  
(MB/58/2012)**

The floor was given to Martin LYNCH, Chair of the working group on planning and reporting, to report on a meeting of the group on 25 October, which discussed the contributions from 10 Board members. As a conclusion from the meeting, the group had supported the Secretariat's efforts in improving the completeness check within the limit of the REACH regulation and its approach to compliance check taking place after the assignment of the registration number. The Commission and ECHA Secretariat had confirmed that ECHA's activities related to the completeness check were compliant with the requirements of the REACH Regulation. Reference was also made to the Secretariat's information session of the previous day on the "quality of registration dossiers – findings based on screening".

During an exchange of views, the Board discussed the importance of the good data quality, measures ECHA had undertaken regarding substance identity, the completeness check and compliance check, as well as proposals for improvement which had been communicated in writing. Board members welcomed that the Secretariat had organised an information session on the quality of registration dossiers for the Board the day before the present meeting.

Some members were of the view that the quality of a dossier should be addressed at the earliest possible stage and that the completeness check should be further improved, for example, through additional manual checks besides the automated process. Other members

reminded the meeting that the completeness check had clear deadlines in REACH and that the system could not be re-engineered at this stage. It was stated that the question of dossier quality was also a matter of perception and that updated statistics and messages were needed from ECHA to reflect the degree of quality of the dossiers currently being received.

A member representing interested parties reminded the meeting that this topic had already been discussed several times in the Board and that this process should not divert the focus of the Secretariat from its other tasks. By far not all registration dossiers would be of low quality. A Board member appointed by the European Parliament stated that confidence was now needed in ECHA and suggested that the extent of concerns over quality be clearly communicated. The completeness check would not have been designed as a quality control tool when REACH was drafted. The member also reminded the meeting of the Board's and ECHA's competencies in the matter.

The Executive Director clarified some of the functionalities of REACH-IT and the technical completeness check tool. ECHA had and would be progressively working on the tool. He pointed out that the targeted compliance check strategy enabled ECHA to concentrate its resources in a most efficient way to address concerns over quality. He also referred to the information provided to the Board during the information session and clarified that the Secretariat identified quality concerns also in cases where a dossier complied with the information requirements but was not fully fit for other regulatory purposes, such as communication in the supply chain. He also referred to recent activity on intermediates where hundreds of companies were asked to improve their registrations before further regulatory action would be initiated.

The Board took note of the information provided.

The Chair concluded that the Secretariat should continue to report to the working group on planning and reporting about the issue. She invited the working group to continue to work on the issue and report back to the Board as appropriate, in particular with regard to the understanding of the nature and magnitude of different quality concerns and to the identification of appropriate further actions to address these.

#### **11. Management of potential conflicts of interest - update on implementation of the ECHA policy (MB/59/2012)**

The Executive Director presented the final report issued by the European Court of Auditors on the management of potential conflicts of interest in selected EU agencies and updated the meeting on recent developments and follow-up activities in this field. The Executive Director's report included a detailed overview on the measures ECHA had undertaken or would still undertake regarding the recommendations in the special report.

The Board welcomed the measures taken since September 2011 in order to foster ECHA's procedures to ensure independence and to take due account of the high public expectations in this regard. Members expressed their confidence that the full deployment of the policy on managing potential conflicts of interest would adequately address the recommendations in the ECA report. The Board also welcomed the room document providing explanations on the specific examples mentioned in the report of the Court. They noted that ECHA had already addressed many of the recommendations by the time the report was published.

The Board took note of the information provided.

The Chair concluded that the Secretariat was encouraged to undertake proactively internal or external audits to confirm the correct application of the new procedures and would report back to the Board after the follow up audit of the Court of Auditors had taken place.



**12. Security Model of the Agency's IT-systems and unified Security Declaration for access to the IT systems (MB/60/2012 rev.01)**

The floor was given to the Director of Information Systems to introduce a proposal for an overall Security Model for ECHA's IT systems and changes to the current "Security Declaration". The changes to the Declaration would, in particular, prepare future access to IT-systems under the Biocidal Product Regulation and the PIC Regulation. The Commission had requested a separate declaration for its own purposes.

The Board took note of the proposal and welcomed in general the approach to provide a unified declaration which would limit the need for adaptations in future. Clarifications were requested i.a. regarding the involvement of the Security Officers' Network in the process, the scope of the application and the signature procedure with different national authorities. Some Member State representatives expressed their concerns regarding the security rules for CIRCABC and practical problems faced by MSCAs<sup>2</sup> when consulting external experts. Many members, however, expressed the need for more time to consult with national authorities on the proposal, in particular with those responsible for biocides activities.

The Secretariat provided the necessary clarifications. Biocidal authorities were being informed of this matter in parallel to the present Board meeting. In order not to jeopardize the timely start of operational work by biocides MSCAs on dossiers arriving shortly after the entry into operation, it would be necessary to arrive at an early solution on this point. New MSCAs would generally require a lot of time to get the necessary signature of the declaration and the technical connection would also take considerable time.

As the Board was not ready to take a decision during the meeting, the Chair concluded that the Secretariat should launch a written procedure in early 2013 with a deadline for replies by 31 January 2013. This would give Board members the time to liaise with the biocides MSCAs in their countries.

**13. Appointment of Committee members (MB/61/2012)**

Ms Stéphanie VIVIER was appointed as a member of the Committee for Risk Assessment whose expertise was confirmed by the Secretariat. The terms of Ms Marie DALTON, Ms Silvia GRANDI and Mr Jiri BENDL as members of the Committee for Socio-economic Analysis were renewed.

**14. Operating framework of the Management Board (MB/62/2012)**

The Executive Director shortly introduced the revised description of the Board's operating framework, defining the Board's role and working practices. The document took into account the changes proposed to the Board's working methods in September. The Board was asked to approve the revised version and agree with its publication on the Agency website, which would contribute to the transparency of the Board and the Agency.

Board members proposed some clarifications to the document.

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<sup>2</sup> Member State Competent Authority

Subject to some amendments<sup>3</sup>, the Management Board approved the description. It would be published on the ECHA website. In response to a request from a Member State representative, it was also concluded that the Secretariat would at a later stage provide further clarifications as regards to the role of the Commission vis-à-vis the Agency and the different competencies of the Management Board and the meeting of the Competent Authorities for REACH and CLP.

#### **15. Composition of the subgroups of the Management Board (MB/63/2012)**

The Board decided on changes to its subgroups: Krzysztof MARUSZEWSKI, future Board member for the Commission, and Thomas JAKL, would join the Reporting officers for the Executive Director to replace members leaving the Board in 2013 (Elke ANKLAM and Claude GEIMER). Nina CROMNIER would join the working group on audit matters and cease her participation in the working groups on dissemination, planning and reporting and on the transfer of fees.

#### **16. Report from the working group on audit matters**

A report on audit matters was presented to the Board by Mr BLAHA, co-chair of the working group on audit. This included information about audit plans for 2013, outsourcing of the data centre and action plans resulting from previous audits. The group had met the day before the present Board meeting.

The working group had also looked in detail into the follow-up of the special report issued by the Court of Auditors on interest management. ECHA's internal audit capability, Minna STRÖMBERG, was present for the agenda item.

The Board thanked the working group for its thorough work and took note of the information.

#### **17. Structure and composition of the Board of Appeal (MB/64/2012)**

The Registrar of the Board of Appeal (BoA) presented the agenda item. She informed the meeting that in 2013, the Management Board would have to consider potential prolongations of BoA mandates that were to expire in 2013 and early 2014. This also involved the Management Board having to inform the Commission if there was a need to initiate a selection procedure. As a first step leading to an informed decision on this matter, the Secretariat had proposed the reassessment of the structure of the BoA as such, and

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<sup>3</sup> p. 4, 4<sup>th</sup> paragraph: From these responsibilities and the role as governing board it follows that the Management Board oversees ECHA's activities **and policy** and sets overall objectives and direction whilst ensuring good governance so that the Agency performs the role and tasks assigned to it and that the Management Board meets all its regulatory obligations.

p. 5, 5<sup>th</sup> paragraph: Hence, it appears that the intention of the legislative authority is that while individually members represent their Member State, institution or interested parties, they are appointed in a personal capacity and/or because of their expertise.

p. 17, 5<sup>th</sup> paragraph: In accordance with a Management Board decision of September 2012, the Secretariat strives, however, to make part of the documents available two weeks before the meeting. ~~The volume and complexity of the documents presented to the Board would make it, however, challenging to submit the documents earlier, also because these documents are often prepared with the support of subgroups of the Board and because it is appropriate to provide the Chair with a minimum timeframe for commenting on the drafts before submission.~~

more precisely whether it was to be continued as a full-time structure or not.

To that effect, the 2007 assumptions that had led to the current structure were revisited. The main conclusion was that the number of appeals had been significantly lower than estimated but that the complexity of cases was much higher than anticipated. Four options were identified for the Board to consider, ranging from keeping the *status quo*, moving to a partly full-time structure, or moving to a completely *ad hoc* solution.

The floor was given to Gustaaf BORCHARDT, Chair of the working group on the Board of Appeal. He presented the work undertaken by the working group and provided information on the group's conclusion that there were currently no reasons to change the existing structure. This assessment was substantiated by a number of considerations, including the growing number of appeals from evaluation in particular, the expected new appeals related to evaluation decisions and under the new EU Biocidal Product Regulation, the confidence of stakeholders in the existing BoA as well as aspects linked to ensuring independence and credibility.

This was followed by a long and fruitful exchange of views. In their interventions, Board members supported the conclusion of the working group. Many members argued that it would be likely that the number of appeals would increase in the coming years. It would then be difficult to re-install the existing structure as well as the competences that had been built up since 2008 and the trust of stakeholders in the BoA. Several members were of the view that the low number of appeals so far should be seen as a proof of the quality of ECHA's decisions. The mere existence of the BoA would encourage the Secretariat to maintain a high level of quality during the preparation of decisions. A member representing interested parties mentioned that a different conclusion could also be drawn from the low number of appeals, namely that ECHA could be more ambitious in its decision-making.

Some interventions highlighted that the BoA would need to find efficiencies should the number of appeals rise. These should, in particular, be sought via more streamlined procedures which should not be too extensive for an administrative appeal body. It was stressed that the BoA was expected to be able to deal with many more appeals than currently being seen, without calling for more resources. A Member State representative asked the Commission representatives for their views on the level of procedural detail in the Rules of Procedures of the BoA. He also asked for explanations regarding the extent to which the 2006 REACH staff assumptions foresaw establishment posts for the BoA.

The Executive Director clarified that the establishment posts allocated to the Agency did not distinguish between the Secretariat and the Board of Appeal. While registry staff could be employed on other matters in case of low case work, the members of the BoA could not. The uncertainty about ECHA's future staffing and resources justified a review of the arrangement after a few years, should the Management Board agree to maintain the current structure of the BoA for the time being.

The Chair of the BoA, Mercedes ORTUÑO, referred to the uncertainty in planning the future workload and the new challenges related to ECHA decisions in the field of biocides. Regarding the working methods, she mentioned that the Commission could review the BoA's Rules of Procedure and adjust them accordingly if improvements in efficiency were needed. She also mentioned that with the experience that the BoA was gaining, it would adjust its own internal procedures whenever a more efficient way of working was identified.

The Chair concluded that the Management Board showed strong support to the recommendation of the working group to continue with the current structure. The Board would return to this item at its March 2013 meeting in order to reach a formal conclusion. The working group on the Board of Appeal was mandated to prepare this decision and a recommendation as regards the need for initiating Commission selection procedures for Board of Appeal functions in 2013.

**18. Readiness for the 2<sup>nd</sup> registration deadline under REACH (May 2013)  
(MB/65/2012)**

The Director for Registration provided the Board with an update on preparations for the second REACH registration deadline. A first peak of registrations was expected by the end of March, with a second by the deadline of 31 May 2013. Subject to a final verification with industry, approximately 3 850 substances were expected for registration, of which 2 990 were new. The number of expected dossiers to be submitted in 2013 varied between 13 500 and 30 000.

She pointed out that the preparations were well under way, with an internal task force coordinating activities and a moratorium for guidance and IT tools in place. ECHA was organising lead registrant workshops and webinars to help the registrants. More webinars and a Stakeholder Day on 26 March were planned next year and ECHA's and national helpdesks were ready to provide additional support, in particular, close to the deadline.

The Management Board took note of the information and welcomed the preparations done by the Secretariat, in particular the support activities planned for registrants.

**19. Establishment of a Day Care Centre within the Agency  
(MB/66/2012)**

The Director of Resources presented the Agency's plans to establish a day-care centre within the Agency. According to the EU staff regulations, the period of paid regular maternity leave in an EU agency was set at a maximum of 20 weeks. Since the Finnish day-care system did not provide places for infants below ten months, staff members had continuously requested a specific solution from the Agency. The ECHA management had acknowledged these concerns and considered that a solution would help to ensure the long-term attractiveness of ECHA as an employer.

The Executive Director stated that a vacant space was available in the Agency's building complex. The owner of ECHA's premises had principally indicated that it would be possible to transform this space into a day care centre. In order to reduce the rental costs, ECHA would need to pay the renovation costs and then contribute to the annual operation. A letter of intent to rent the space was signed with the landlord and a feasibility study was commissioned by the owner which would allow a more detailed planning. The letter of intent provided for a decision by both parties on the rent and renovation by 15 January 2013. The Management Board was asked to endorse the course of action with an indicative ceiling for renovation costs and annual contributions by the Agency (€ 1 million maximum for the renovation and up to € 180 000 annual costs).

The Management Board acknowledged the Secretariat's initiative to seek a solution for the situation. The importance of the issue for a healthy work-life balance as well as retention and availability of staff were highlighted by several members. However, a number of members raised concerns regarding the indicative investment and operating costs of the project. They asked for more information on possible alternatives regarding both the facilities and the financing.

The Executive Director and the Director of Resources responded that the results of a feasibility study were expected in the following week, giving more information about the planned investment costs. They reminded the Board that many other Agencies had their own day-care centres and that a proper day-care system close to the Agency would improve the work-life balance of the staff. Some of the proposals mentioned in the discussion, such as the use of existing kindergartens or the European School, had already been investigated.

Because of the concerns expressed by the members, the Chair mandated the working group on planning and reporting to look in more detail into the proposal before it was to be submitted, with the requested background on alternatives, to the Board by written

procedure. The deadline for the written procedure was set at 15 January. It was noted that a decision after 15 January would possibly result in a different use of the available space by the landlord.

*[Secretary's note: After the meeting, the owner of ECHA's building confirmed that the timeframe for confirming the rent and the renovation could be extended until 31 January. A written procedure could thus have a later deadline in January 2013].*

## **20. Joint Statement of three institutions on the Common approach on regulatory agencies (MB/67/2012)**

A Commission representative gave a presentation on the Joint statement of three institutions on a common approach on regulatory agencies. The text of this statement had already been submitted to the Board in September 2012. As a next step, a Commission roadmap was expected by the end of 2012, outlining the action points. The aim was to further improve the functioning of agencies and the efficient use of resources.

The Executive Director continued with his reflections on the statement as well as its follow up in general by ECHA. He reminded the meeting that the statement and the common approach were developed horizontally for all EU agencies and that many of the proposals had already been implemented in ECHA. He mentioned that the Network of EU agencies had actively provided input to the process and that the final text did not take all the proposals, especially those related to simplification, into account.

Board members thanked for the information, emphasising the independence of regulatory agencies from the Commission, and indicated that they were looking forward to receiving the Commission's roadmap.

The Board took note of the information provided.

## **21. Participation of Serbia in the work of the Forum (MB/68/2012)**

The Director of Cooperation gave an update on the request from the Republic of Serbia to participate in the Forum for Exchange of Information on Enforcement as an observer. The item had already been discussed at the Board's September meeting. It had been postponed due to the restructuring of the Serbian administration, thus requiring confirmation of the interest by the Minister in charge: this had since arrived at ECHA. He mentioned that Serbia had built up significant administrative capacity and could actively contribute to the exchange of best practice in enforcement. Both the Forum and Serbia would benefit from the cooperation.

A Commission representative expressed his concerns on whether the timing of the decision was justified since the Serbian authorities would only have to enforce the REACH Regulation after a potential accession to the European Union.

As no other objections were raised, the Chair concluded that the Board agreed to the request from Serbia to participate as an observer to the Forum, subject to the agreement of the Forum itself. Subsequently, the Board would decide on the request by written procedure.

## **22. Any Other Business**

The Board took note of the following items:

- *Commission communication on REACH review*

The Commission "review of REACH", the review of ECHA and an overlap analysis regarding the scope of the Regulation, had been due on 1 June 2012. The Commission was planning to publish it in January 2013 and to organise a conference in February.

- *Revision of the REACH Fee Regulation*

A draft for a revised REACH Fee Regulation was going to be submitted to the REACH (comitology) Committee in February 2013.

- *Preparation of the update of the multi-annual staff policy plan*

In line with the revised Commission instructions, ECHA would submit a draft to the Commission for comments by 31 January 2013. Taking account of these comments, the Management Board would then approve the updated staff policy plan in March based on an opinion of the Working Group on Planning and Reporting.

- *Work of the Risk Communicators network*

The situation of the currently inactive network would be reviewed in the second semester of 2013.

- *Mandates of Board members*

A number of mandates of Board members would expire on 30 May 2013. The Council would need to decide in due time on the prolongation or on changes and the Member State Permanent Representations would have to initiate these procedures. ECHA would write a letter to the respective Permanent Representations to facilitate a smooth process and avoid any interruption to the proceedings of the Board. As before, this letter would be sent in copy to the Council Secretariat.

- *Commission approval of the Board decisions taken in June 2012*

The Commission representatives present were asked to seek a favourable Commission opinion, as soon as possible, on

- the decision of the Management Board to review the SME charges providing a financial incentive to companies that collaborated with ECHA and
- the decision on reimbursement to Member States (transfer of fees) for certain regulatory tasks.

- *Management Board meeting dates 2013*

An update of the 2013 meeting dates was provided to the Board with changes to the dates for June and December 2013 compared to the earlier version of March 2012.

## **23. Next meeting and closure**

The Chair gave the floor to Martin LYNCH to inform the Board about the next meeting which was to take place in Dublin on 21-22 March 2013. A REACH conference was planned by the Irish EU Presidency one day before the meeting.

### **III. Decisions taken / Conclusions reached by the Management Board**

The Management Board:

- adopted the agenda for its 28<sup>th</sup> meeting (MB/A/04/2012).
- approved the minutes of its 27<sup>th</sup> meeting (MB/M/03/2012).
- adopted a third amending budget for 2012 (MB/53/2012), instructed the Executive Director to notify the decision to the Budgetary Authority, the Court of Auditors and the Commission and to have it published.
- took note of budgetary transfers (MB/54/2012) and the outcome of the written procedure MB/WP/04/2012.
- adopted the Agency's budget for 2013 including the establishment plan (MB/55/2012 part I) and instructed the Executive Director to notify the decision to the Budgetary Authority, the Court of Auditors and the Commission and to have it published. The budget would become final following the final adoption of the general budget of the European Union.
- mandated the Executive Director, with the support of the Chair, to continue the discussions with the Commission regarding additional financing of tasks under the Biocidal Product Regulation in 2013 (MB/55/2012 part II).
- endorsed ECHA Secretariat's intention to continue with the asset management agreement with the European Investment Bank (MB/56/2012).
- adopted two updated annexes of the Work Programme 2013 as adopted in September 2012 and instructed the Executive Director to forward the programme, as amended, to the Member States, the European Parliament, the Council and the Commission and to have it published.
- appointed Ms Stéphanie VIVIER as a member of the Committee for Risk Assessment (MB/61/2012).
- renewed the terms of Ms Marie DALTON, Ms Silvia GRANDI and Mr Jiri BENDL as members of the Committee for Socio-economic Analysis (MB/61/2012).
- approved a description of its operating framework (MB/62/2012).
- decided on a revised composition of its subgroups (MB/63/2012).
- agreed to Serbia's request to participate as an observer to the Forum, subject to the agreement of the Forum itself (MB/68/2012). Subsequently, the Board would decide on the Serbian request by written procedure.

#### List of outstanding follow-up actions

- The Board would revisit the issue of the remuneration of Committee rapporteurs and the time assumptions for their tasks and those of the Secretariat in the context of the next update on the transfer of fees to the Member States.
- The Board would be kept informed about the further practical implementation and new developments with regard to the involvement of case-owners and stakeholder observers in the authorisation application phase.
- A list of mandates of the working groups would be provided to the Board.

#### **IV. List of Attendees**

##### Representatives of the Member States

Karel BLAHA (CZ)  
Nina CROMNIER (SE)  
Krisztina CSENGÖDY (HU)  
Paulo Guilherme DA SILVA LEMOS (PT)  
Arwyn DAVIES (UK)  
Kassandra DIMITRIOU (EL)  
Jean-Roger DREZE (BE)  
Ana FRESNO RUIZ (ES)  
Claude GEIMER (LU)  
Thomas JAKL (AT) also acting as proxy for Ms FAJFAR (SI)  
Jan Karel KWISTHOUT (NL) also acting as proxy for Mr THUESEN (DK)  
Pirkko KIVELÄ (FI)  
Antonello LAPALORCIA (IT)  
Martin LYNCH (IE) also acting as proxy for Mr FARRUGIA (MT)  
Boyko MALINOV (BG)  
Edyta MIEGOC (PL)  
Catherine MIR (FR)  
Alexander NIES (DE)  
Leandros NICOLAIDES (CY)  
Edita NOVAKOVA (SK)  
Armands PLATE (LV)  
Aive TELLING (EE)  
Marija TERIOSINA (LT)

##### Representatives of the Commission

Elke ANKLAM  
Gustaaf BORCHARDT  
Antti PELTOMÄKI

##### Independent persons appointed by the European Parliament

Anne LAPERROUZE  
Christina RUDÉN

##### Representatives from interested parties appointed by the Commission

Martin FÜHR (EEB/University of Darmstadt)  
Gertraud LAUBER (EMCEF/ETUC)  
Hubert MANDERY (CEFIC)

##### Observers from EEA/EFTA countries

Henrik ERIKSEN (NO)  
Sigurbjörg SÆMDUNSDÓTTIR (IS)

##### Other Observers

Peter ØSTERGAARD HAVE on behalf of Eskil THUESEN (DK)  
Cosmin TEODORU on behalf of Ionut GEORGESCU (RO)  
  
Krzysztof MARUSZEWSKI (European Commission)  
Björn HANSEN (European Commission)  
Elena PASCUAL JIMENEZ (European Commission)



Katja VOM HOFE (expert accompanying Mr NIES)  
Tasoula KYPRIANIDOU (expert replacing Mr Nicolaides – 2nd meeting day)  
-LEONTIDOU

ECHA staff

Geert DANCET (Executive Director)  
Jukka MALM (Director of Regulatory Affairs)  
Leena YLÄ-MONONEN (Director of Evaluation)  
Jack DE BRUIJN (Director of Risk Management)  
Andreas HERDINA (Director of Cooperation)  
Christel MUSSET (Director of Registration)  
Jef MAES (Director of Resources)

Thomas OBERG (Chair of SEAC)

Andrew FASEY (Technically qualified member, BoA) for agenda item 16  
Tuula HAKALA (Head of Unit, Finance) for agenda items 5, 6 and 7)  
Sari HAUKKA (Registrar, Registry of BoA) for agenda items 4, 5, 6, 8, 10, 16,  
17, 18, 19 and 21

Marie-Josée LAUWERS (HR Assistant) for agenda item 18

Shay O'MALLEY (Head of Unit, Human Resources) for agenda item 18  
Mercedes ORTUNO (Chair, BoA) for agenda item 16  
Minna STROMBERG (Internal audit) for agenda item 15  
Javier SANCHEZ-SAEZ (Scientific Officer) for agenda item 17  
John WICKHAM (Accounting Officer) for agenda items 7 and 15

Alain LEFEBVRE (Head of Unit, Executive Office)  
Frank BÜCHLER (Legal Officer, Executive Office)  
Mervi MUSTAKALLIO (Planning and Monitoring Officer, Executive Office)  
Tiiu BRÄUTIGAM (Member States Relations Officer, Executive Office)

## Corrigendum to the minutes of the 27<sup>th</sup> Management Board meeting

### 4. Review of the working methods of the Management Board (MB/33/2012)

(...)

The exchange of views at the meeting focused on those issues that required further discussion in the light of the outcome of the written consultation. Issues discussed included, for example, the role of the Board towards other ECHA or Commission bodies; the differences **and relations** between REACH policy and ECHA policy;

(...)

### 7. 2<sup>nd</sup> amending budget 2012 (MB/36/2012)

(...)

ECHA **had stopped paying pension contributions** (~~The modalities of the payment had been discussed between ECHA and the Commission~~) since ECHA had started to receive subsidies again, for new PIC and Biocides tasks, in July 2012.

In the view of the ECHA Secretariat, the dependency on subsidy for some of its activities should, in accordance with the **Staff Regulations** (~~EU Financial Regulation~~) result in coverage of the pension contributions from the general budget. The Commission (~~did not confirm~~) **confirmed its** interpretation **from** last year but is willing to analyse the issue again. ECHA had also asked the Court of Auditors for an opinion. In the light of these ongoing discussions, the Commission representative made a reservation with regard to any implication from the proposed amendment. The Executive Director clarified that the budget amendment did not preclude any decision on the pending matter. By way of contrast, ECHA did, with the amendment, continue to foresee the pension contributions on the expenditure side and, hence, would be able to fulfil any possible obligations in case the Secretariat's interpretation of the **Staff Regulations** (~~EU Financial Regulation~~) was not confirmed.

The Management Board adopted the second amending budget for 2012. It instructed the Executive Director to notify this decision to the Budgetary Authority, the Court of Auditors and the Commission, and have the amended budget published on the Agency's web page and in the Official Journal of the European Union.

**The Management Board agreed to return to the issue of pension contributions in its December meeting, after having clarified with the support of the Commission, how to ensure a consistent implementation across all EU agencies, of who should pay the employers' contribution.**