



Helsinki, 21 June 2011

Doc: MB/29/2011 final

Handling conflicts of interests at ECHA

(Document submitted to the Management Board)

1. Introduction

The management of (potential) conflict of interest situations is a key element of governance of every EU agency and crucial for maintaining the trust of stakeholders and citizens in its integrity. For ECHA, this requires, for example, that members of the Secretariat or any other Agency body, such as the Management Board, the Forum and the Committees, or experts participating to ECHA's meetings and networks should act without regard for personal benefit, be it of financial nature or not. No ethical, professional, political, ethnic, family, or other personal preferences should affect the integrity of the ECHA decision-making process. Equally, no improper advantages should be gained from access to confidential business information or other sensitive internal information.

In practical terms this means that in all of its activities ECHA has to strike a delicate balance between getting the right expertise on board to guarantee high quality science-based decision making and at the same time strictly avoiding unlawful interests influencing this decision-making process. Important tools to achieve this balance are awareness raising, methods for detecting risks to the Agency's integrity, the establishment of clear boundaries for (un)acceptable circumstances and the appropriate management of conflict of interest situations, including underlying clear procedures. In this, it is not so much a matter of eliminating any possibility of conflict of interest (which might prove impossible), but rather it is key that such conflicts are effectively detected at an early stage, recorded and handled appropriately. This requires a strong culture of awareness, transparency and scrutiny from ECHA staff, Board and Committee members as well as any other experts working with the Agency.

The handling of conflicts of interest at agencies is also scrutinised by the EU institutions and some recent incidents in other agencies have caused negative publicity in this respect. As a consequence the annual report of the European Parliament of 15 April 2011 on the discharge of agencies 2009: performance, financial management and control of EU agencies contains a reminder on this topic:

- *Reminds the agencies of the importance of fully guaranteeing the independence of their staff and experts; encourages, in particular, the agencies to carefully file and assess their controls on this; stresses, in fact, that an agency's reputation could be affected in cases where it is challenged on the ground of conflicts of interest*
- *Calls on the Court of Auditors to undertake a comprehensive analysis of the agencies' approach to the management of situations where there are potential conflicts of interest*

It is clear from the above that the proper handling of conflicts of interest is of the utmost importance for the Agency's reputation.

The Court of Auditors will follow the above request from the European Parliament and prepare a special report on the situation in a limited number of agencies, including ECHA, EFSA, EMA and EASA which are considered as having the highest importance to industry amongst EU Agencies. The audit will analyse the policies and controls in place, including a visit to the agencies. Furthermore, an analysis of best practice in the field will be conducted (e.g. equivalent policies in peer organisations, like OECD). The audit will focus on external scientific experts and members of Committees and other bodies, Executive Directors and sensitive management posts (this is likely to include post employment aspects), Members of the Management Board and Members of the Board of Appeal. Audit visits are planned to be completed by end of October and preliminary findings will be presented at the beginning of 2012.

2. Current situation at the ECHA Secretariat¹

According to Article 88(2) of the REACH Regulation (EC) No 1907/2006, all members of the Management Board, the Executive Director, members of the Committees and of the Forum shall, when taking up their duties, make a written declaration of interests which could be considered to be prejudicial to their independence. Subsequently every such declaration is published on the ECHA website. The declarations are renewed annually. The respective Secretariat of the Management Board, the Committees or Forum is in contact with members for ensuring that regular updates are provided. The Rules of Procedures contain as annex the template for the declarations.

Additionally, at each meeting the same persons and any experts participating in the meeting are explicitly asked by the Chair to declare any interests which could be considered to be prejudicial to their independence with respect to any of the points on the agenda. Anyone declaring such interests shall not participate in any voting on the relevant agenda point. The Secretariat ensures that the Chair enquires about potential conflicts of interest at each of these meetings and that this is recorded in the minutes.

When proposals for the appointment of new Committee members are presented to the Management Board, the ECHA Secretariat has also adopted the approach to always include a short analysis of possible conflicting interests to focus the attention of the Management Board on potential issues. This goes back to the time when first decisions on the eligibility criteria for members of the scientific Committees were discussed at Management Board meetings in 2007 and 2008. It was clarified then that the appointment of Committee Members was not to be regarded as an automatic process even in cases where only one candidate had been appointed by a Member State. An appropriate level of independence of the committee members had to be considered as an underlying prerequisite for them to carry out their work properly. The Board preferred, however, at this point in time to follow a case-by-case based on some guiding principles rather than codifying detailed requirements (see MB/01/2008 p.4/5):

- *“Candidates being employed by a commercial enterprise that could have any direct interest in the matter dealt with by the relevant Committee shall not be appointed. Appointed members of the Committees of the Agency shall resign from the Committee before they enter into service in any such enterprise.*
- *Candidates being an active member of, or employed by, an association or other body (except a body established under public law of a Member State serving a public interest) which can be considered as an interest group in the context of the field dealt with by the relevant Committee shall not be appointed. Appointed members shall resign from the Committee before they enter into service in any such association.*
- *Candidates who work as private consultants or who are employed by a consultancy company (including employees of universities or public institutes providing such services on an occasional basis) and who currently have contracts with chemical industry or downstream users associations, chemical companies, or other potential registrants or authorisation applicants after having been appointed as members, should*
 - (a) withdraw from current contracts and*
 - (b) refrain from entering into any new contracts with potential registrants, applicants and chemical industry or downstream user associations. “*

¹ The Board of Appeal is not covered in this note. Its procedures for addressing potential conflict of interests were presented to the Management Board at previous meetings. In particular, the Board of Appeal has adopted a Code of Conduct which includes conflict of interest aspects and the members and alternates sign annual declaration of interests (see further MB/75/2008 and MB/34/2010).

When a Committee member is appointed as Rapporteur or Co-Rapporteur, he or she make for each case a written declaration of absence of conflict of interests in line with Article 87(1) of the REACH Regulation. A member of a Committee is not appointed rapporteur for a particular case if he indicates any interest that might be prejudicial to the independent consideration of that case.

Furthermore, the respective Rules of Procedure of the Management Board, the ECHA Committees and the Forum clearly include the duty of independence (Article 9). Finally, the ECHA Secretariat has also drafted a guidance document on conflicts of interest with practical advice for ECHA Committees and Forum members, their advisers and invited experts (attached as Annex 1).

With regard to the ECHA staff members, the Staff Regulations (Articles 11-16) impose a number of obligations that should prevent conflicting interest. Additionally the Executive Director has adopted a decision which contains guidance on both conflicts of interest and on invitations and gifts. This decision was put in place as one of the first actions of the Interim Executive Director in 2007. (ED Decision 01/2007 is attached as Annex 2). Also the ECHA Code of Good Administrative Behaviour imposes the duty of impartiality and independence on staff (Article 8).

In practice, staff members formally sign a declaration of interests at the start of their employment in a welcome meeting with the Executive Director. Additionally they are informed of their duty to avoid and declare potential conflicts in an early information session for new staff, where it is also pointed out to them that an update of the declaration is necessary when changes occur.

In line with the Staff Regulations. dedicated procedures are in place for managing the compatibility of outside-engagements with the status as Agency staff member (prior agreement needed). After leaving the Agency service, former ECHA staff has to notify the Agency for a period of two years of any employment that could constitute a conflict of interest with the ECHA post. The Agency can, if needed, either forbid the former staff member from undertaking it or give its approval subject to any conditions it thinks fit.

As regards the protection of inside information, ECHA has a strong Security Policy in place to protect the information entrusted to the Agency. The Policy is based on a strict “need to know” basis as regards any confidential business information.

3. Review of current practise

As can be clear from the above, ECHA has already a robust system in place to deal with possible conflicts of interest.

However, lessons should be drawn from the experiences in other and more mature agencies and international organisations such as OECD which have developed their approaches and procedures over time and based on practical experiences. This applies in particular for EFSA and EMA which work in a comparable regulatory environment and have only recently revised their approaches towards the handling of conflict of interests. It applies also to specific agencies and public authorities working in relevant fields at the national level. ECHA should learn from their experience to strengthen its present practice bearing in mind that with the increasing volume of scientific opinion and decision making at ECHA, a continuous strong focus on avoiding undue interest is pivotal for ensuring the credibility of ECHA’s decision making in this critical phase of the REACH implementation. This is particularly important

when a high number of dossier evaluation decisions will be prepared or when authorisation applications will be assessed in the near future.

The ECHA Secretariat has therefore recently introduced a dedicated webpage on the ECHA website to centralise all published declarations of interest of the Executive Director, the Management Board members, as well as of those of the members of the ECHA Committees and the Forum. Also the guidance documents and other basic documents are published here.

Furthermore, it can be concluded from the above analysis that, although all basic elements are in place to adequately handle possible conflicts of interest at ECHA, an overarching general policy would considerably enhance the visibility of the matter externally and internally and create additional awareness and sensibility. Therefore the ECHA Secretariat is currently reviewing its practices and drafting an overall policy document to define a general Agency approach on this topic. Additionally, more detailed documents with clear instructions on how to handle conflicts of interest in practise are under preparation. With this policy and improved implementing documents, the Agency will progressively put in place and keep updated sound procedures for identifying, managing and resolving conflict of interest situations. Eventually, ECHA wants to foster its corporate culture of integrity that does not tolerate conflict of interest and treat the issue in an open and transparent manner. Dedicated tools for this will be awareness raising, special web- pages, updated interest-declarations and regular reminders as well training and advice as needed.

The draft policy is planned to be presented to the Management Board meeting in September or latest December for endorsement, as it is foreseen in the Rolling Plan presented to the Management Board in March 2011.

Attachments:

- Annex 1: ECHA Guidance on Conflicts of Interest for ECHA Committees and Forum Members, their advisers and invited experts
- Annex 2: ECHA Guidance on conflicts of interest and invitations and gifts, as well as declarations of commitment, confidentiality and interests (Decision of the Interim Executive Director ED/01/2007)



ECHA GUIDANCE ON CONFLICTS OF INTEREST FOR ECHA COMMITTEES AND FORUM MEMBERS, THEIR ADVISERS AND INVITED EXPERTS

1. INTRODUCTION AND LEGAL BASIS

The current ECHA Guidance on conflicts of interest applies to all members, their advisers and invited experts of ECHA Committees (that is, the Committee for Risk Assessment, Committee for Socio-economic Analysis and Member State Committee) and a Forum for Exchange of Information on Enforcement (hereinafter, ‘the Forum’). It provides guidance on identifying interests that could potentially present conflicts.

According to Article 88(2) of the REACH Regulation, members of the Committees and of the Forum shall make a declaration of commitment to fulfil their duties and a declaration of interests which could be considered to be prejudicial to their independence. These declarations shall be made annually in writing and entered in a register held by the Agency which is accessible to the public, on request, at the Agency offices.

Article 87(1) of the REACH Regulation provides that a member of the Committee shall not be appointed as a rapporteur or co-rapporteur for a particular case if he/she indicates any interest that might be prejudicial to the independent consideration of that case. For each case, rapporteurs and co-rapporteurs must make a declaration of commitment and a declaration of interests in writing. The Committee concerned may replace the rapporteur or co-rapporteur by another one of its members at any time.

According to Article 88(3) of the REACH Regulation, at each of their meetings, members of the Committees and of the Forum and any experts participating in the meeting shall declare any interests which could be considered to be prejudicial to their independence with respect to any points on the agenda. Anyone declaring such interests shall not participate in any voting on the relevant agenda point.

Following these provisions, all members of the ECHA Committees and of the Forum will be requested to fill in a form declaring all relevant interests once they have been appointed. In addition, the members, their advisers and invited experts must declare any potential ad hoc conflicts of interest at each meeting.

The Management Board of the Agency has adopted its own declarations.

The present Guidance and declaration form is to be approved (adopted in the case of the Forum) by the Management Board following the proposal of the respective Committee or the Forum and will be annexed to the respective Rules of Procedure (Article 85(9) and Article 86(4) of the REACH Regulation).

It is notable that the mere existence of a conflict of interest is not in itself a breach of the REACH Regulation. Declarations of interests will be monitored and assessed in order to identify and avoid any potential conflicts and agree on appropriate actions, if needed.

The present Guidance reflects the state of play as of April 2008 and may be reviewed later on.

The annual declarations will be entered in a register held by the Agency which is accessible to the public, on request, at the Agency's offices. In addition, it is suggested that the annual declarations of interest will be made available at the Agency's website.

2. WHO SHOULD DECLARE?

All members, their advisers and invited experts of the ECHA Committees and the Forum are bound by the rules on conflicts of interest and must at each meeting of the relevant Committee, Forum or working group declare any interests which could be considered to be prejudicial to their independence with respect to any points on the agenda. However, only the members are requested to make annual declarations in writing, as provided under Article 88(2) of the REACH Regulation. Once appointed as a rapporteur or co-rapporteur, any Committee members are, in addition, requested to make the declarations referred to in Article 87(1) of the REACH Regulation, but these declarations would as a rule be signed in the context of signing the written contract between ECHA and the individual concerned referred to in Article 87(3) of the REACH Regulation.

Hereinafter, the term 'individual' is used to cover all these members, their advisers and invited experts for the purpose of this Guidance, unless otherwise specified.

3. WHAT TO DECLARE?

3.1 Definition of a conflict of interest

A conflict of interest exists where there is a risk that decisions, opinions or recommendations of the Agency and/or its Committee or Forum or working group might be influenced as a result of the existence or perceived existence of a direct or indirect interest in one of the parties involved.

Direct or indirect interest can be:

- Holding of financial interest
- Family ties, personal friendships
- Work and activities carried out for the industry and organisations of REACH relevance
- Other links with the industry and organisations of REACH relevance

- Other interests and facts

3.2 Holding of financial interest

For the purpose of the current declaration, the term 'financial interest' means any financial interest in undertakings which are subject to the authority of ECHA or which have dealings with ECHA, including holding of stocks and shares, stock options, equity, bonds, partnership interest in the capital of such undertaking, one of its subsidiaries or a company in the capital of which it has a holding. The financial interest of more than 50,000 euros per company acquired, held or sold in the past five years is considered as such a substantial value that should be declared. In addition and notwithstanding their financial value, holding of shares, stocks or comparable amounting to a voting right of 5 % or more in a company should be declared.

However, the holding of financial interest connected with a pension scheme and/or interest in non-nominal unit trusts or similar arrangements would not, in principle, have particular consequences, provided that individual has no influence on its financial management. Similarly, the holding of shares or other financial interests through an investment fund does not need to be declared.

A conflict of interest would typically arise if an individual were to take part in the decision-making process or be otherwise involved in a matter concerning a company in which the person concerned held securities or otherwise had a financial interest.

The individuals concerned should without delay inform the ECHA Secretariat about any changes occurring in their financial interests.

3.3 Family ties and personal relationships

A Committee/Forum member should declare in his/her initial declaration of interests any financial and/or other interest held by any members of household (spouse, partner and children living at the same address). In order to guarantee privacy, their names do not need to be declared. This obligation also includes any facts relating to the member of household that are relevant to the operating area of ECHA.

Whereas it appears obvious that the independence of an individual might be compromised when dealing with members of his/her family in the performance of his/her professional duties, this might also be the case when dealing with personal friends. Therefore, the individuals concerned should without delay inform the ECHA Secretariat of any potential ad hoc conflicts of interest following not only from his/her family ties but also from his/her personal relationships.

3.4 Work and activities carried out for the industry and organisations of REACH relevance

Work and activities carried out for the industry and organisations relevant to the operating area of ECHA could be considered to be prejudicial to individual's independence. Accordingly, all Committee/Forum members will, once they have been appointed, be requested to declare all work and activities performed during the preceding five years for or on behalf of the industry and organisations of relevance to the operating area of ECHA, whether or not these activities have been subject to regular or occasional remuneration in cash or in kind. This declaration includes, but is not limited to:

- Participation in the internal decision-making of a company relevant to the operating area of ECHA (for example, board membership, executive or non-executive directorship);
- Permanent or temporary member of the personnel of a company relevant to the operating area of ECHA;
- Active membership of or involvement in any organisation relevant to the operating area of ECHA¹;
- Member of a scientific advisory body with voting rights on the outputs of the entity;
- Work contracted out by companies or organisations relevant to the operating area of ECHA, through consultancy or otherwise;
- Other activities, such as traineeships, grants and sponsorships, performed within a company and organisation relevant to the operating area of ECHA, whether or not received in a personal capacity.

3.5 Other links with the industry and organisations of REACH relevance

Individuals should declare all assistance and support with direct or indirect pecuniary or material benefits, such as grants for study or research and fellowships or sponsorships, received from industry and organisations relevant to the operating area of ECHA during the preceding five years. Contrary to the work and activities carried out for the industry and organisations of REACH relevance referred to under point 3.4 above, the assistance and support under this paragraph covers grants, fellowships, sponsorships and equivalent received in a personal capacity for studies and research performed outside the industry or organisation of REACH relevance.

Individuals should also declare any intellectual property rights of REACH relevance received as a creator and/or owner of works that are the result of human intellectual creativity. These can be publications or can be in the industrial, scientific or artistic domain. They can, for instance, be in the form of a copyright, trademark or patent on the substance or article.

3.6 Other interests and facts

In addition to the interests above, any individual should declare any other interest or fact whether or not related to the industry and organisations relevant to the operating area of

¹ However, membership in a trade union or comparable is not required to be declared.

ECHA which he/she considers should be made known to the Agency, including matters relating to the members of his/her household.

4. WHEN TO DECLARE?

Initial declaration: Upon his/her appointment, each Committee or the Forum member is required to fill in and sign a declaration of interests form.

Appointment as rapporteur: A Committee/Forum member should not accept appointment as a rapporteur or co-rapporteur if he/she indicates any interest that might be prejudicial to the independent consideration of that case. For each case, the rapporteurs and co-rapporteurs must make a declaration of commitment and a declaration of interests in writing. The declarations will normally be signed in the context of signing the written contract between ECHA and the individual concerned referred to in Article 87(3) of the REACH Regulation.

Update of the initial declaration: Declarations must be updated annually or without delay once relevant changes have occurred.

Spontaneous declarations: At each of their meetings, members, their advisers and invited experts of the Committees and of the Forum or its working group must declare any interests which could be considered to be prejudicial to their independence with respect to any points on the agenda. Anyone declaring such interests shall not participate in any voting on the relevant agenda point. The spontaneous declarations will be recorded in the minutes of the meeting.

5. OPERATIONAL ASPECTS

5.1 Tasks of the ECHA Secretariat

The ECHA Secretariat undertakes the following:

- Explain the applicable rules to all parties concerned and remind them of their obligation to declare their interests;
- Organise signing of declarations, including their annual and other updates;
- Regularly assess and monitor declarations and make a preliminary appraisal of compatibility of interests declared with the general or specific office or duties of the individuals concerned;
- Initiate and facilitate dialogue within the appropriate forum; and
- Hold a registry of signed declarations, including any annual and other updates to declarations of interests, which is accessible to the public, upon request, at the Agency's offices.

5.2 Obligations of the individuals concerned

Individuals are bound by the conflict of interests rules referred to in this Guidance and must declare any interests, as summarised above. When declaring interests, the individual should

state, in particular, the type and nature of interest, specifying whether they are general or relate to a specific substance, registrant or other.

5.3 Procedure to update the declaration of interests

In the case of any Committee or Forum or its working group member concerned wishing to review and update his/her initial declaration of interests he/she should contact the ECHA Secretariat.

5.4 Meeting proceedings

In order to ensure that conflicts of interests become declared, chairpersons of all meetings should at the start of each meeting or at least every six months remind members, their advisers and invited experts of their obligation to declare any interests which could be considered to be prejudicial to their independence with respect to any points on the agenda.

Particular precautions should be taken in the case of working groups with experts and other situations where conflicts of interests are likely. In such cases a reminder should be made at the beginning of every such meeting.

The declarations shall be recorded in the minutes of the meeting.

On the basis of the type and nature of interests noted, meetings could consider various options to resolve the conflict of interest, such as fundamental incompatibility with membership of the group, incompatibility with the performance of certain functions or tasks, temporary exclusion from the meeting or abstention from the discussion and/or the vote.



Helsinki, 31 October 2007
Doc: ED/01/2007

**GUIDANCE ON CONFLICTS OF INTEREST AND INVITATIONS
AND GIFTS AS WELL AS DECLARATIONS OF COMMITMENT,
CONFIDENTIALITY AND INTERESTS**

(Decision by the Interim Executive Director)

AS THE INTERIM EXECUTIVE DIRECTOR OF THE EUROPEAN CHEMICALS AGENCY

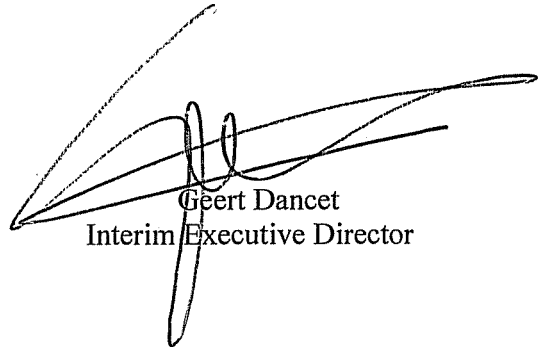
I HAVE TODAY DECIDED AS FOLLOWS:

1. The Agency Guidance on conflicts of interests (Annex 1) and the Agency Guidance on invitations and gifts (Annex 2) shall apply to all staff members.
2. Staff members shall make a declaration of commitment and confidentiality when entering into service.

Staff members shall declare interests which might impair their independence in the performance of their duties. The first declaration shall be made when entering into service.

These declarations shall be made in accordance with the models contained in Annex 3 and Annex 4.

Done at Helsinki, 31 October 2007



Geert Dancet
Interim Executive Director



ECHA GUIDANCE ON CONFLICTS OF INTEREST FOR STAFF MEMBERS

1. INTRODUCTION AND LEGAL BASIS

The current ECHA Guidance on conflicts of interest applies to all staff members and provides guidance on identifying interests that could present conflicts.

This Guidance is based on provisions of Title II 'Rights and obligations of officials' of the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities (hereinafter, 'the Staff Regulations').

This Guidance remains in the remit of the Executive Director as part of the day-to-day management of staff issues (Article 83(2) (a) and (g) of the REACH Regulation) and can be adopted by his decision.

Following the Staff Regulations and the present Guidance, all staff members will be requested to fill in a form declaring all relevant interests when entering into service. In addition, staff members must declare any potential ad hoc conflicts of interest to their immediate superior.

It is notable that the mere existence of a conflict of interest is not in itself a breach of the Staff Regulations or this Guidance. It is only an objective situation creating a risk that must be prevented or mitigated by normal management measures.

The present Guidance reflects the state of play as of October 2007 and may be reviewed later on.

2. WHO SHOULD DECLARE?

All staff members are bound by the rules on conflicts of interest. Under Article 103(3) of the REACH Regulation, the Agency's staff shall consist of officials assigned or seconded by the Commission or Member States on a temporary basis or of other servants recruited by the Agency as necessary to carry out its tasks. Hereinafter, the term 'staff member' is used for the purpose of this Guidance.

3. WHAT TO DECLARE?

3.1 Definition of a conflict of interest

A conflict of interest exists where there is a risk that decisions, opinions or recommendations might be influenced as a result of the existence or perceived existence of a direct or indirect interest in one of the parties involved. Staff members should inform their hierarchy, in writing, of any potential conflict of interest as soon as it becomes apparent.

Direct or indirect interest can be:

- Holding of financial interest
- Family ties, personal friendships
- External activities and remunerations during and after employment at ECHA
- Work and activities carried out for the industry and organisations of REACH relevance before employment at ECHA
- Invitations and gifts
- Other interests and facts

3.2 Holding of financial interest

A conflict of interest would arise if a staff member or his or her superior(s) were to handle a matter or otherwise take part in the decision-making process (including through consultation) involving a company in which the person(s) concerned held securities or otherwise had a financial interest.

Such situations are expressly covered by Article 11a of the Staff Regulations. Paragraph 1 of this provision reads: *“An official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interest.”* Paragraph 3 states: *“He [the official] may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties.”* (Underlining added)

As this provision only refers to ‘interest of such kind or magnitude as might impair his independence in the performance of his duties’, the interest must be substantial. Thus, a staff member must not handle or be involved in a matter where he has such an interest through owning a substantial value of shares, or derivatives (options, warrants, etc.) linked to shares of a company involved in the matter. For the purpose of the declaration of interests of ECHA staff members, the financial interest of more than 10,000 euros per company acquired, held or sold in the past five years is considered as such a substantial value that should be declared. In addition and notwithstanding their financial value, holding of shares, stocks or comparable amounting to a voting right of 5 % or more in a company should be declared.

However, shares and other financial interests held through an investment fund do not need to be declared. In addition, the holding of financial interest connected with a pension scheme contracted prior to employment at ECHA and/or interest in non-nominal unit trusts or similar arrangements would not, in principle, have particular consequences, provided that individual has no influence on its financial management.

For the purpose of ECHA declaration of interests, the term 'financial interest' means any financial interest in undertakings which are subject to the authority of ECHA or which have dealings with ECHA, including holding of stocks and shares, stock options, equity, bonds, partnership interest in the capital of such undertaking, one of its subsidiaries or a company in the capital of which it has a holding.

ECHA staff members should without delay inform the Human Resources and Facilities unit about any changes occurring in their financial interests.

3.3 Family ties and personal relationships

Article 11a (1) of the Staff Regulations establishes that a *“an official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interest.”* Whereas it is obvious that the independence of a staff member might be compromised when dealing with members of his/her family in the performance of his/her professional duties, this might also be the case when dealing with personal friends.

Staff members should therefore inform their Director or other immediate superior about family or other ties that might imply a conflict of interest within the meaning of Article 11a of the Staff Regulations. The supervisor then has to decide whether the personal relationships could endanger the independence of staff member.

Since a spouse's professional activities may also create a conflict of interest, it should be recalled that Article 13 of the Staff Regulations creates an obligation for staff members to inform the Appointing Authority of their spouse's employment situation.

Along these lines, a staff member should declare in his/her initial declaration of interests any financial and/or other interest held by any members of household (spouse, partner and children living at the same address) without declaring names of these latter persons. This obligation also includes any facts relating to the members of household that are relevant to the operating area of ECHA. In addition, the staff member should without delay inform his/her Director or other immediate superior of any potential ad hoc conflicts of interest following from his/her family ties and personal relationships.

3.4 External activities and remunerations during or after employment at ECHA

Rules applicable to external activities and remunerations during and after the employment at ECHA derive from the Staff Regulations and Commission Decision C(2004) 1597/10 of 28

April 2004 on outside activities and assignments (hereinafter referred to as “the Commission Decision”) which can by analogy be applied to ECHA staff.

The Commission Decision defines three types of external activities that may raise a conflict of interest:

a) Public office: any public office, paid or unpaid, filled by election or otherwise.

b) Assignment: the taking on of a defined, time-limited task, for example giving a speech, making a presentation or writing an article.

c) Outside activity: any activity, paid or unpaid, that is of an occupational character or otherwise goes beyond what can reasonably be considered a leisure activity, such as giving lectures in the framework of university courses, writing a book or working as a consultant. The performance of duties stemming from the tenure of public office is a special case in that there is no obligation to request authorisation. For staff members who intend to stand for public office, or have been elected or appointed to public office, Article 15 of the Staff Regulations establishes the obligation to inform the Appointing Authority, which will decide whether and under what modalities the staff member may continue to discharge his/her duties.

As to the other two types of external activities, according to both the Staff Regulations and the Commission Decision, staff members are under the obligation to request authorisation from the hierarchy prior to engaging in assignments or outside activities. This obligation applies to staff in active employment as well as to staff on leave on personal grounds (CCP). Former staff members remain, according to Article 16 of the Staff Regulations, subject to this obligation for two years after having left the service.

In all cases, avoiding conflicts of interest is the principle governing decisions regarding external activities.

3.5 Work and activities carried out for the industry and organisations of REACH relevance before employment at ECHA

Work carried out for the industry and organisations relevant to the operating area of ECHA before employment at ECHA could impair the independence of a staff member in the performance of his/her duties. Accordingly, all ECHA staff member will, when entering into service, be requested to declare all work and activities performed during the preceding five years for or on behalf of the industry and organisations of relevance to the operating area of ECHA, whether or not these activities have been subject to regular or occasional remuneration in cash or in kind. This declaration includes, but is not limited to:

- Participation in the internal decision-making of a company relevant to the operating area of ECHA (for example, board membership, executive or non-executive directorship);
- Permanent or temporary member of the personnel of a company relevant to the operating area of ECHA;

- Active membership of or involvement in any organisation relevant to the operating area of ECHA¹;
- Work contracted out by companies or organisations relevant to the operating area of ECHA, through consultancy or otherwise.

Should any of the above activities be carried out during or within two years after a staff member's employment at ECHA, the provisions explained under point 3.4 of this Guidance will apply.

3.6 Invitations and gifts

See the ECHA Guidance on invitations and gifts.

3.7 Other interests and facts

In addition to the interests above, any staff member should declare any other interest or fact whether or not related to the industry and organisations relevant to the operating area of ECHA which he/she considers should be made known to the Agency, including matters relating to the members of the staff member's household.

This, for instance, includes all assistance and support with direct or indirect pecuniary or material benefits, such as grants for study or research and fellowships or sponsorships, received from industry and organisations relevant to the operating area of ECHA during the preceding five years.

4. WHEN TO DECLARE?

Initial declaration: Upon appointment as an ECHA staff member, each individual is required to fill in a declaration of interests form.

Update of the initial declaration: The staff member should without delay, once changes have occurred, update the initial declaration of interests to the Human Resources unit.

Spontaneous declarations: If at any time in the course of his/her duties a staff member becomes aware of any potential or likely conflict of interest he/she must immediately inform his/her Director or other immediate superior who will determine any appropriate action. For example, if someone who is involved in a matter, or who is in a position to influence the decision-making process through the procedures within the Agency, or a member of his or her family, owns shares in a company involved in the matter, this fact should be made known immediately to this superior.

Such declarations have to be made in writing. As regards the action to be taken, in some instances the supervisor might decide to assign another staff member to the matter. In all instances, the supervisor will forward, in writing, the information he/she has received and the

¹ However, membership in a trade union or comparable is not required to be declared.
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operational conclusions he/she has drawn from it to the Head of Unit at the Human Resources and Facilities unit.²

5. OPERATIONAL ASPECTS

5.1 Tasks of the ECHA Secretariat

The Human Resources and Facilities unit of ECHA undertakes the following:

- Brief all new staff members of the Agency about the Staff Regulations and the present Guidance, including their obligation to declare their interests;
- Appoint a contact person in the unit to advise and assist staff members in matters relating to conflicts of interest;
- Make an appointment for each new staff member with the Executive Director for the acknowledgement and signature in his/her presence of the declaration of interest;
- Hold a registry of signed acknowledgement of receipts, together with the documentation, of the individuals concerned concerning the above documentation, including any updates to declarations of interests; and
- Regularly assess and monitor declarations and make a preliminary appraisal of compatibility of interests declared with the general or specific office or duties of the individuals concerned.

The Executive Director will, on request of the Human Resources and Facilities unit, meet all new staff members in order to have their declarations of interests to be acknowledged and signed.

The respective Head of Unit or Director of ECHA will ensure that when recruiting for managerial posts a declaration of interests will be required from interviewed candidates before any appointments are made. The respective Director will also assess any potential and likely ad hoc conflicts of interest declared by his/her staff members and will determine any appropriate action to be taken.

5.2 Obligations of the individuals concerned

Staff members are bound by the Staff Regulations and this Guidance adopted on its basis and should acknowledge and sign a declaration of commitment, confidentiality and interests when entering into service.

The staff members also have a primary obligation to disclose at any time the existence of potential or likely conflicts of interest that any personal interest of such kind or magnitude as might impair his/her independence. The individual should inform his/her Director or other

² If an member of staff in a management post is himself /herself facing a conflict of interest, his/her superior will decide whether to assign the case causing the conflict to another unit or directorate or whether to instruct the member of staff concerned not to become involved in the matter.

immediate superior, in particular, of the type and nature of interest, specifying whether they are general or relate to a specific substance, product tender, recruitment or other.

5.3 Procedure to update the declaration of interests

In the case of any staff member wishing to review and update his/her declaration of interests he/she should contact the Human Resources and Facilities unit to make an appointment for such a review and update.

ECHA GUIDANCE FOR STAFF ON INVITATIONS AND GIFTS

1. INTRODUCTION AND LEGAL BASIS

The present ECHA Guidance on invitations and gifts applies to all staff members and provides guidance on accepting invitations and gifts by parties outside ECHA.

Under Article 103(3) of the REACH Regulation, the Agency's staff shall consist of officials assigned or seconded by the Commission or Member States on a temporary basis or of other servants recruited by the Agency as necessary to carry out its tasks. Hereinafter, the term 'staff member' is used for the purpose of this Guidance. Hereinafter, the term 'staff member' is used for the purpose of this Guidance.

This Guidance is based on provisions of Title II 'Rights and obligations of officials' of the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities (hereinafter, 'the Staff Regulations').

Article 11 of the Staff Regulations provides for procedures relating to gifts. Staff members must seek permission before accepting any honour, decoration, favour, gift or payment of any kind whatever, except for services rendered prior to appointment to ECHA or during special leave for military or other national service and related to that service.

In principle, invitations are to be treated like gifts because an invitation might influence one because it is of value (whether or not of a monetary value), or give the impression that ECHA is a partisan or being influenced or open to influence.

This Guidance remains in the remit of the Executive Director as part of the day-to-day management of staff issues (Article 83(2) (a) and (g) of the REACH Regulation) and can be adopted by his decision.

The present Guidance reflects the state of play as of October 2007 and may be reviewed later on.

2. GIFTS AND FAVOURS

Pursuant to Article 11 of the Staff Regulations, staff members cannot accept gifts from anyone outside ECHA without the authorisation of the hierarchy. The following conditions under which gifts may be accepted have been developed, in practice, by DG Administration of the European Commission and this Guidance stems from them.

If the gift is of a symbolic nature, such as calendars or souvenirs from events, and /or its value is obviously less than 50 euros, a staff member may accept it without informing his/her Director or other immediate superior, as long as his/her autonomy is not compromised and the total value of all gifts received does not go beyond 50 euros given by the same source in any given year.

Authorisation to accept a gift must be requested for all gifts whose value is at least 50 euros. Director or other immediate superior may authorise the staff member to keep the gift if its value is less than or equal to 250 euros. Authorisation to accept such gifts will only be granted if the superior considers that their acceptance is clearly in the interest of the service.

Any gift of a personal nature must be returned. A gift sent to a home address may not be accepted and must be returned and the Agency has to be notified in writing.

It may not always be clear if a gift has a value of more than the set limit and whether it should be accepted or not. The question in such a situation is whether the acceptance of the gift could compromise the staff member's autonomy, independently of its value. Where there is any doubt regarding a gift or favour, the advice of the relevant Director or other immediate superior should be sought.

Staff members should not use items with visible logos of organisations relating to the operating area of REACH in the course of their work.

3. INVITATIONS TO EVENTS AND TO REFRESHMENTS, LUNCH, DINNER ETC.

Regarding events, invitations to attend a major sport event, as well as invitations for holidays, boat trips and comparable, that have no relationship with the event at which the staff member is speaking, should be refused. Also invitations from any source outside ECHA to events where leisure is predominant, for instance sports, concerts, holiday or weekends, should be avoided. In addition, an invitation or event should be avoided where the price category is not appropriate. This implies that, although it may be difficult to evaluate the monetary value of invitation or event, authorisation of Director or other immediate superior to accept the invitation should be requested for all invitations and events whose value is at least 50 euros. Director or other immediate superior may authorise the staff member to accept the invitation or event if its value is less than or equal to 250 euros.

The Executive Director and Directors have diplomatic status and can accept invitations to certain events that follow that status. Moreover, staff members responsible for external communication and relations of the Agency whose tasks include contacts and networking with parties outside the Agency may also need to participate in certain events as a part of their duties. For events whose value is superior to 100 euros, prior authorisation should be sought from the Director or immediate superior.

As for invitations to refreshments, lunch, dinner etc., staff members should as a main rule pay themselves for refreshments or meals in the course of a meeting, and should not accept invitations from companies and organisations. Invitations to meals or refreshments with little or moderate value (that is, not more than 50 euros) on single occasions may, however, be accepted. If the value of the meal or refreshment is at least 50 euros, authorisation of Director or other immediate superior should be sought. Director or other immediate superior may authorise the staff member to accept the meal or refreshment if its value is less than or equal to 250 euros.

However, staff members on mission attending an industry or other conference may attend official lunches and dinners provided that the invitation is extended to all participants or conference speakers. A corresponding declaration shall be made under the ECHA mission rules. A spouse or partner may attend events with the staff member if invited, provided they pay in full all the additional costs following from the spouse's/partner's participation.

In all cases where there is any doubt regarding an invitation or event, the advice and advance permission of the relevant Director or other immediate superior should be sought where possible. If this is not possible, the invitation should be declared on the mission claim where relevant. At any case, discretion must be exercised as to the possible impression given on third parties or the public.

4. FEES AND HONORARIUMS

Article 12b of the Staff Regulations establishes for staff members an obligation to obtain authorisation before engaging in any activity, whether paid or unpaid, outside the Communities.

Activities, such as giving speeches, making presentations or participating in conferences, when carried out in the framework of a mission ordered by the Agency, are not considered external activities within the meaning of Article 12b. It must be recalled that Article 4 of the Commission Decision (2004) 1597/10 of 28 April 2004 on outside activities and assignments forbids a staff member from accepting any payment offered in exchange for work done in the framework of a mission. The staff member should however ask for the costs of the mission to be reimbursed by the inviting organisation. Any such reimbursement shall be declared and deducted from the staff member's mission costs.

Concerning external activities, a staff member is allowed to receive payment as long as an authorisation has been granted by his/her Director or other immediate superior and the limits set out in Article 9 of Commission's Decision C(2004) 1597/10 of 28 April 2004 are respected. The maximum annual ceiling for net remuneration, including any fees, which a staff member may receive in connection with all his/her outside assignments and activities is 4,500 euros. Reimbursement of costs, such as transportation costs, and royalties for publications shall not be taken into account for this purpose.

5. HONOURS AND DECORATIONS

If a staff member is offered an honour or decoration, a permission to accept it must be obtained in advance from the Executive Director.

DECLARATION OF COMMITMENT AND CONFIDENTIALITY

I, hereby declare that I shall make all reasonable efforts to fulfil my duties as a member of the staff of the European Chemicals Agency.

I undertake to exercise in all loyalty, discretion and conscience the functions entrusted to me at the European Chemicals Agency; to carry out these functions and conduct myself with the interests of the Agency only in view, and not to seek or accept instructions in regard to the performance of my duties from any government, authority, organisation or person external to the Agency.

I further undertake to exercise the greatest discretion with regard to all facts and information coming to my knowledge in the course of or in connection with the performance of my duties at the European Chemicals Agency. I shall not disclose any information of the kind covered by the duty of professional secrecy. I accept without reservation that I continue to be bound by this obligation after having left the Agency.

Helsinki, ____/____ 20__

Signature: _____



DECLARATION OF INTERESTS OF ECHA STAFF MEMBERS

Name and Surname
 Position:

Please list below all interests possibly affecting your independence¹:

1. Work and activities in organisations relevant to the operating area of ECHA during the past 5 years²:

| Name of organisation | Position | Period |
|----------------------|----------|--------|
| | | |
| | | |
| | | |

2. Financial interests in a company relevant to the operating area of ECHA during the past 5 years and exceeding 10 000 € and/or voting right of 5 % or more per company:

| Name of company | Estimated value | Year acquired | Year sold |
|-----------------|-----------------|---------------|-----------|
| | | | |
| | | | |
| | | | |

3. Other interests or facts whether or not related to such organisations³ which you consider should be made known to the Agency, including matters relating to the members of your household⁴:

.....

I,, hereby declare on my honour that, to the best of my knowledge, the only direct or indirect interests I have in organisations relevant to the operating area of ECHA directly related to my job at the ECHA are those listed above.

I further declare that should any changes occur and should it appear that I have or acquire additional interests that should be made known to the Agency, I shall forthwith declare them and complete a new declaration of interests detailing the changes.

Signature:..... Date:.....

¹ If you have no interests for the relevant section, please indicate "none".
² Work and activities, whether or not remunerated, including traineeships, on behalf of such an organisation.
³ For example staff members having a potential interest in procurement procedures.
⁴ A household member means: spouse, partner, or child living at the same address as the staff member. The names of these persons need not be declared.