

## Mandate of the Executive Director

### 62<sup>nd</sup> Meeting of the Management Board 23-24 June 2021

#### Proposal

The Management Board is invited to:

- Take note of the resignation of the Executive Director from his contract with ECHA, with his last day in contract on 31 March 2022, and
- Decide to request the European Commission to take the necessary steps to propose to the Management Board a list of suitable candidates for appointing a new Executive Director, in accordance with Article 84(1) of REACH.

#### Background

The Executive Director is ECHA's legal representative and manages the Agency. He/she is appointed by the Management Board, on the basis of a list of candidates proposed by the European Commission. The term of office of the Executive Director is five years and may be prolonged by the Management Board once for another five years.

The current Executive Director, Bjorn HANSEN, was appointed<sup>1</sup> by the Management Board in December 2017, with effect of 1 January 2018 for a first mandate ending on 31 December 2022. On 16 June 2021, the Executive Director informed the Chair of the Management Board that he will, for family reasons, resign from his contract with his last day of office on 31 March 2022<sup>2</sup> and retire from the European Commission<sup>3</sup> with effect from 1 April 2022.

#### Next steps

- a) Selection and appointment of a new Executive Director

To initiate the process of the selection and appointment of ECHA's new Executive Director, the Management Board will need to, via its Chair, formally ask the European Commission to propose a list of candidates for appointment.

As a first step, this will require drawing up a **vacancy notice**. The European Commission will propose a first draft, following the applicable guidelines and on the basis of the previous vacancy notice (used in 2016-2017). The Management Board will be invited to approve this vacancy notice prior to its publication. Considering the need to fill the vacancy without undue delay, the review of the draft of the vacancy notice and the consultation and approval of the Management Board needs to happen before the summer holiday period. It may include a short preparatory online session and the Chair of the Management Board may initiate a written procedure for the approval.

As a second step, the **pre-selection** phase, i.e. the process for preparing the Commission list takes in general around 9-12 months. As per the applicable guidelines, the Management Board may decide to appoint an observer to follow the activities of the selection at Commission level.

As a third step, upon receipt of the list of candidates from the European Commission, the **Management Board** organises interviews, assesses the merits and selects a new Executive Director.

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<sup>1</sup> MB/M/04/2017 final.

<sup>2</sup> The contractual termination notice is three months.

<sup>3</sup> From which institution he is seconded to ECHA in his own interest.

The Executive Director is selected and appointed on the grounds of merit and documented administrative and management skills, as well as his/her relevant experience in the fields of chemical safety or regulation.

Before the final Management Board appointment, as a fourth step, the selected candidate will be invited to make a statement before the **European Parliament** and to answer questions from its Members. It is standard practice that the Parliament sends the Management Board written feedback from this exchange for consideration in the context of the final appointment decision.

b) Interim period

The timelines indicate that there may be an interim period between 1 April 2022 and the appointment of a new Executive Director, for which the Management Board will have to put arrangements in place. These arrangements may involve appointing an acting-Executive Director to perform essential duties as legal representative of ECHA. The Management Board will be invited to take a decision to this effect in due course, i.e. in March 2022 the latest.

c) Practical arrangements for the preparation of upcoming Management Board decisions

In order to prepare upcoming Management Board decisions, such as the approval of the vacancy notice or any transitional/interim arrangements, the Management Board may decide to appoint a preparatory group. For reasons of efficiency and consistency, this group may be composed of the Chair of the Management Board and the Reporting Officers for the Executive Director. The group, if appointed, may provide advice and assistance to the Management Board and report to it as necessary.

## Risks and mitigating measures

a) Communication

Consistent and clear communication to staff and external stakeholders will be necessary and this requires that public information, about the decision of the Executive Director to retire and the next steps, will be distributed via official ECHA communication channels.

In acknowledgement of the Management Board's prerogatives as appointing authority, the Board is informed first. ECHA staff will be informed on 22 June, before the Management Board plenary meeting. The public preliminary conclusions from the meeting and the formal minutes will provide context that can be used by members for informing their relevant constituencies.

ECHA will make sure that appropriate public information about the process will be available, in line with the Agency's commitment to transparency and the Management Board's standard practice.

Against this background, **all members are requested to maintain confidentiality about the proceedings until after the Management Board meeting**. The discussion in the upcoming Board meeting will be held in camera, which means that only Board members, their pre-registered persons of trust and advisors, the Executive Director and essential MB secretariat staff will be present.

b) Prevention of potential conflicts of interests

During the duration of the process for selecting and appointing the new Executive Director, any possible conflicts of interest will have to be avoided. This requires that Board members and/or Secretariat staff who intend to stand as a candidate in the process will need to declare their interest in due course and the Chair of the Management Board will then implement the appropriate mitigation measure, which may include the request to refrain from participating in Board meetings under the relevant agenda items.

**Attachments:**

- Annex 1: Letter of 16 June 2021 from the Executive Director to the Chair of the Management Board (*Highly restricted*)
- Annex 2: Extract from the REACH Regulation, Article 84 Appointment of the Executive Director and Article 83 Duties and powers of the Executive Director
- Annex 3: Procedure and practical arrangements for the appointment of the ECHA Executive Director applied in 2017, available at [https://echa.europa.eu/documents/10162/2413601/mb\\_09\\_2017\\_procedure\\_appointm ent\\_ed\\_en.pdf/d7112cd1-ef3c-98b8-80e5-2747f4ed403e](https://echa.europa.eu/documents/10162/2413601/mb_09_2017_procedure_appointm ent_ed_en.pdf/d7112cd1-ef3c-98b8-80e5-2747f4ed403e)

For questions: [mb-secretariat@echa.europa.eu](mailto:mb-secretariat@echa.europa.eu)

## **Annex 2 Extracts from the REACH Regulation<sup>4</sup>**

### Article 84: Appointment of the Executive Director

1. The Executive Director of the Agency shall be appointed by the Management Board on the basis of a list of candidates proposed by the Commission following a call for expressions of interest published in the Official Journal of the European Union and in other periodicals or on Internet sites.

The Executive Director shall be appointed on the grounds of merit and documented administrative and management skills, as well as his relevant experience in the fields of chemical safety or regulation. The Management Board shall take its decision by a two-thirds majority of all members with a right to vote.

Power to dismiss the Executive Director shall lie with the Management Board, in accordance with the same procedure.

Before being appointed, the candidate selected by the Management Board shall be invited as soon as possible to make a statement before the European Parliament and to answer questions from Members of Parliament.

2. The term of the office of the Executive Director shall be five years. It may be prolonged by the Management Board once for another period of up to five years.

### Article 83: Duties and powers of the Executive Director

1. The Agency shall be managed by its Executive Director, who shall perform his duties in the interests of the Community, and independently of any specific interests.

2. The Executive Director shall be the legal representative of the Agency. He shall be responsible for:

- (a) the day-to-day administration of the Agency;
- (b) managing all the Agency resources necessary for carrying out its tasks;
- (c) ensuring that the time-limits laid down in Community legislation for the adoption of opinions by the Agency are complied with;
- (d) ensuring appropriate and timely coordination between the Committees and the Forum;
- (e) concluding and managing necessary contracts with service providers;
- (f) the preparation of the statement of revenue and expenditure and the implementation of the budget of the Agency pursuant to Articles 96 and 97;
- (g) all staff matters;
- (h) providing the secretariat for the Management Board;
- (i) preparing draft opinions of the Management Board concerning the proposed rules of procedure of the Committees and of the Forum;
- (j) making arrangements, upon request from the Management Board, for the execution of any further function(s) (within the remit of Article 77) allotted to the Agency by delegation from the Commission;
- (k) establishing and maintaining a regular dialogue with the European Parliament;
- (l) determining the terms and conditions for use of software packages;
- (m) rectifying a decision made by the Agency following an appeal and after consulting the Chairman of the Board of Appeal.

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<sup>4</sup> Regulation EC<sup>o</sup> N<sup>o</sup> 1907/2006 of 18 December 2006.

3. Each year, the Executive Director shall submit the following to the Management Board for approval:

- (a) a draft report covering the activities of the Agency in the previous year, including information about the number of registration dossiers received, the number of substances evaluated, the number of applications for authorisation received, the number of proposals for restriction received by the Agency and opined upon, the time taken for completion of the associated procedures, and the substances authorised, dossiers rejected, substances restricted; complaints received and the action taken; an overview of the activities of the Forum;
- (b) a draft work-programme for the coming year;
- (c) the draft annual accounts;
- (d) the draft forecast budget for the coming year;
- (e) a draft multiannual work programme.

The Executive Director shall, following approval by the Management Board, forward the work programme for the coming year and the multiannual work programme to the Member States, the European Parliament, the Council and the Commission, and shall have them published.

The Executive Director shall, following approval by the Management Board, forward the Agency's general report to the Member States, the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Court of Auditors, and shall have it published.