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GENERAL APPROACH ON THE ADMISSION OF OBSERVERS FROM ECHA'S ACCREDITED STAKEHOLDER ORGANISATIONS TO THE WORK OF THE MEMBER STATE COMMITTEE

INTRODUCTION

Article 85(4) of the REACH Regulation foresees the possibility that stakeholders are invited as observers to the meetings of the Committees of the European Chemicals Agency (ECHA). Basic rules on admission of such observers as well as general rules on transparency are included in the Rules of Procedure of the Member State Committee (MSC).

ECHA's Management Board has adopted a policy concerning the co-operation with accredited stakeholder organisations (ASO) and authorised the Executive Director to launch an open call for expression of interest for the ASO to participate in the work of the Agency. The results of the call are presented regularly to the Management Board at its meetings and the ECHA's Committees are informed annually about any developments in this regard.

This document lays down the basic principles for admission of ASO observers to the work of MSC.

FOUNDATIONS

ECHA's Committees have made a strong commitment to involve stakeholders in their activities and take serious efforts in putting this commitment into practice in their daily work. However, as MSC deals with concrete dossiers under different REACH processes and is in general participating in REACH implementation involving strategic discussions, the observers' access to Committee meetings may sometimes need to be limited.

Following the release of the Commission's decision (C (2011) 1823 final) on 23 March 2011, agreeing to the development of appropriate contacts between ECHA and relevant stakeholder organisations pursuant to Article 108 of REACH Regulation, in December 2011, the ECHA Management Board decided on stakeholder selection criteria¹ to be applied for determining relevant stakeholder organisations eligible to participate in the work of the Committees or Forum². According to these criteria, any stakeholder organisations expressing interest in ECHA's work must be registered in the Transparency Register maintained by the European Commission, before a Committee or the Forum of ECHA may consider inviting representative of such an organisation to attend their meetings.

Lists of ASO observers involved in the work of different ECHA bodies are available on ECHA website³.

¹ More information on the selection criteria can also be found on ECHA website:

<http://echa.europa.eu/web/quest/about-us/partners-and-networks/stakeholders>

² ECHA's approach to engagement with its Accredited Stakeholder Organisations

(http://echa.europa.eu/documents/10162/13559/echas_approach_to_engagement_with_accredited_stakeholder_organisations_en.pdf)

³ Cooperation with Accredited Stakeholder Organisations (more detailed information could be found here:

<http://echa.europa.eu/web/quest/about-us/partners-and-networks/stakeholders/cooperation-with-accredited-stakeholder-organisations>)

The MSC ASO list⁴ contains all organisations (industrial or consumer organisations, trade unions or associations, environmental NGOs, animal welfare organisations, academic associations) that expressed their interest in the work of MSC and are regarded as eligible.

The organisations invited by MSC to follow regularly the Committee's work are considered as **regular ASO observers**, as they represent a large group of industry or other general/cross-sectorial/broader sector-specific interests.

The organisations regarded as **occasional ASO observers** are those representing specific industry sector or other more specific interests, whose regular involvement in the work of the Committee may not be justified.

The ASO observers are to be kept separate from the **case owners** whose participation in the Committee's proceedings is a subject of other rules and procedures established.

GENERAL PROVISIONS

To allow mutual understanding of the role and scope of the stakeholder observer participation in the work of the Committees, a Code of Conduct⁵ for ECHA observers from the stakeholder organisations is provided and should be followed by all Committees' observers.

Pursuant to Article 6(6) of the MSC Rules of Procedure, the following principles are applied as regards the admission of regular stakeholder observers:

- MSC bases its selection of ASO observers on the results of the call for expression of interest and selects the observers mainly among the organisations that are eligible and regarded as representing wider interests.
- The total number of ASO observers should not exceed half of the number of members. To ensure a balanced selection, organisations representing similar interests can be approached as one group and asked to make a proposal for observers' representation of the whole group. Rules on rotation can be agreed upon.
- The number of observers representing mainly industry and trade interests and the number of observers representing other interests is kept the same to ensure a balanced representation of different interests.
- Once per year, the MSC Secretariat reports to MSC of the ASO participation in the work of the Committee and of any new ASO's expressions of interest relevant for MSC and seek the Committee's agreement of the way forward.
- After the decision by MSC on the selection of the ASO observers, the MSC Secretariat approaches these organisations and informs them accordingly.
- At any point of time, on the basis of the MSC Secretariat's report or on member's request, MSC may decide to reconsider its decision for admission of a ASO observer, due to his/her non-compliance with the Code of conduct or other justified circumstances.

MSC considers that the observers have made valuable input to its proceedings.

When a request from a regular observer is submitted to the MSC Secretariat to bring an expert for a specific agenda item at a plenary meeting, the MSC Chair decides on the request and informs the requesting observer accordingly.

In addition the MSC Chair can decide to hold a meeting or parts thereof in a closed session⁶ under Article 6 (12) of the MSC Rules of Procedure. In such cases, the ASO observers are de-briefed of the outcome of the closed sessions.

⁴ List of agreed MSC ASO observers:

http://echa.europa.eu/documents/10162/13578/list_aso_msc_observers_en.pdf

⁵ Code of Conduct for ECHA observers from the stakeholder organisations:

http://echa.europa.eu/documents/10162/13559/conduct_code_stakeholder_observers_en.pdf

⁶ More information regarding the closed and open sessions in a MSC meeting is available here:

http://echa.europa.eu/documents/10162/13578/Closed_and_open_sessions_of_msc_plenary_meetings.pdf

ADMISSION OF ASO OBSERVERS

Admission of regular ASO observers

In accordance with the general provisions described above on the admission of ASO observers, MSC applies the following approach:

- Based on the MSC Secretariat's annual report regarding the ASO participation in the MSC work and the update on the new ASO expressing interest in MSC work, the Committee considers and decides on the admission of the ASO as MSC observers on an annual basis.
- MSC applies the quotas for ASOs representing different interests for keeping the balanced representation of different interests, i.e. the total number of ASO observers' seats (currently 14 observer seats are available as 50% of 29 MSC members) is divided in the following quotas: 7 seats assigned to the Industry quota (incl. general interest/sectorial industry/academic organisations) and 7 seats assigned to the NGOs quota (incl. trade unions, environmental and human health NGOs and animal welfare NGOs).
- If a number of interested ASOs is higher than the number of available observer seats, the MSC Secretariat will explore the possibilities for involving more ASOs with similar or complimentary areas of interest in the Committee's work by applying rotation⁷ in their meeting participation. MSC will be informed of the outcome of the Secretariat's efforts prior to the ASO annual review
- If the total number of MSC-interested ASO exceeds the number of different quotas, MSC may decide in favour of admitting new ASO while removing some existing ASO observers, e.g. when they are not contributing or not taking part in the work of MSC, or the ASOs representing the same or similar interests may be invited as MSC observers by applying "rotative" participation⁸ approach. In such case all invited ASOs within a rotating group will have access to MSC non-confidential documents, while only a limited number of representatives, in accordance with the seats assigned for this rotation group, will be allowed to participate in the Committee's meetings.
- If a number of interested ASOs is higher than the number of available observer seats divided, if necessary, in quotas (for ensuring balanced representation of interests), "rotative participation" is not possible and the quotas are exceeded, the MSC Secretariat may suggest the Committee to agree on **an ASO priority list**. Such priority list is expected to be created when ASOs with diverging interests covered under one and the same process compete for a regular observer seat.
- The following criteria could be used for assessing an ASO's priority:
 - ❖ ASO represents broader/more general interests and/or has a significant number of members, or broad coverage of membership throughout the EU;
 - ❖ ASO has interests in all/more of the working areas/processes of a Committee;
 - ❖ ASO has an interest in participation in the Committee's work on a permanent basis or occasionally in the light of the current/expected workload, a particular process or a particular type of discussions/dossiers;
 - ❖ ASO can contribute significantly to the work of the Committee as a whole, on a process-specific basis or on a working area basis;
 - ❖ ASO has already actively and constructively contributed to the Committee's work.
- MSC decides on the admission of any (new) ASO in a closed session at its plenary meeting.
- The Secretariat informs the concerned ASO of the relevant MSC decision.

⁷ Organisations representing similar interests can be approached as one group and asked to make a proposal for observers' representation of the whole group.

⁸ This in practice means that all organisations which are part of the rotation group will be allowed to follow the MSC work through having access to non-confidential documents and all will receive an invitation to a MSC meeting. The organisations by themselves will have to coordinate who will participate in the meeting and that the number of meeting participants will not exceed the number of seats for that specific quota of the group of the ASOs.

- When MSC agrees to admit the selected ASOs, i.e. the first ASOs from the priority list as a regular observer, the Secretariat invites this ASO (if it is a new MSC ASO) to nominate a permanent representative to follow the work of MSC.
 - After the receipt of nomination and of the signed declarations⁹, the ASO representative is granted CIRCABC access, included in the list of the Committee's regular ASO observers and invited to the plenary meetings on a regular basis.
 - No response or lack of nomination within the specified period (one month) will be followed by a written reminder to the ASO to nominate a representative within an additional two weeks. No response or lack of nomination after the remainder will be considered as lack of interest in active participation to Committee's work. In such case, the ASO will not be further considered in the following annual ASO reviews for general observer status¹⁰ and the Secretariat approaches the next ASO in the priority list and invites them to nominate a representative.
- If an ASO nomination is made, but the representative does not sign the declarations or does not attend three consecutive plenary meetings, then the Secretariat sends a standard warning notification to this ASO with a specified period for response.
 - If no response is received, the ASO is informed that it will be removed from the list of ASOs of the Committee (meaning that this organisation will no longer be invited to the plenary meetings and the access rights to CIRCABC will be revoked).
 - Once removed from the MSC ASO list, this ASO will have to contact the MSC Secretariat expressing interest to participate in the Committee's work and commit to an active and constructive participation. After that, the ASO will be included in the forthcoming yearly review of ASO participation in the Committee.
- The list of the ASO agreed by MSC to participate in its work is publicly available on the ECHA's website.

Admission of occasional¹¹ ASO observers

As regard the admission of the occasional ASO observers, the same principles are to be applied on a case-specific basis, as follows:

- The Secretariat uploads on the ECHA website the Provisional Draft Agenda at least 25 calendar days prior to each MSC plenary meeting.
- When an occasional MSC ASO identifies a point of interest in the MSC meeting agenda, it should indicate to the MSC Chair its interest in participation in this specific agenda item in writing at least 10 calendar days before the meeting, specifying the details of its nominated representative and the potential benefits for MSC from this participation.
- Considering the total number of received ASO indications per agenda item, the specified benefits for MSC and the practical possibilities for such participation, the MSC Chair decides on the requests received and informs the concerned ASO of the decision regarding their participation.

⁹ Declaration of confidentiality and Acceptance notice of ECHA Code of Conduct.

¹⁰ Unless this organisation explicitly contacts the relevant Committee Secretariat and shows interest to participate in the Committee, nominates a representative and commits to an active and constructive participation.

¹¹ Organisations that are eligible and have expressed interest in the work of MSC, but have not been invited by the Committee as regular observers.