Report pursuant to article 110
of ECHA's Financial Regulation

1 October 2015

Report to the European Parliament and to the Council following the Resolution of 29 April 2015 with observations forming an integral part of the Decision on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2013

1. Background

Article 110 of the European Chemicals Agency's (ECHA) Financial Regulation provides that:

1. The Executive Director shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.

2. At the request of the European Parliament or the Council, the Executive Director shall report on the measures taken in the light of those observations and comments. The Executive Director shall send a copy thereof to the Commission and the Court of Auditors.

For the discharge 2014, the Secretariat of the European Parliament Committee on Budgetary Control informed of a request for a follow-up report in accordance with this provision, to be submitted by 16 October 2015.

Section 2 of the present report provides an overview of the relevant observations and recommendations from the European Parliament Resolution of 29 April 2015 on discharge in respect of the implementation of the budget of ECHA for the financial year 2013[1], together with the measures ECHA has taken in light of these. For completeness, ECHA's reply to the comment accompanying the Council's Recommendation[2] of 17 February 2015 on the discharge of the European Chemicals Agency for the financial year 2013 is included in this overview.

On 27 April 2015 the European Parliament adopted also the resolution: "Report on 2013 Discharge: performance, financial management and control of the EU agencies - Discharge in respect of the implementation of the budget of the European Union agencies for the financial year 2013: performance, financial management and control (2014/2139(DEC))". This resolution is a horizontal report containing recommendations and observations that accompanied the individual 2013 Discharge reports for each of the EU Decentralised Agencies and Joint Undertakings. The follow-up actions to these recommendations where a collective response was identified by the Agencies Network will be presented in a separate paper being prepared by the Agency holding the Chairmanship of the EU Agencies' Network. ECHA will duly contribute to this report.

[1] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2015-0140+0+DOC+PDF+V0//EN
[2] 05304/2015 – C8-0054/2015
http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%205304%202015%20ADD%201

2. Measures taken in the light of the discharge decision 2013

Observation of the Discharge Authority	Response and measures taken by the Agency	Status/Reference
10. Notes with concern that the level of committed appropriations carried over to 2014 remained high at 46 % for Titles III, IV and V (operational expenses); acknowledges however from the Court's report that these carry-overs were mainly as a result of the multiannual nature of planned IT development projects, costs for translations ordered but not received by year-end and substance evaluations for which the regulatory deadline was February 2014; calls on the Agency to continue to be attentive to the level of carry-overs in operational titles;	ECHA confirms to continue being attentive to the level of carry-overs in operational titles.	On-going
12. Points out that staff-related expenses have increased by 11 % between 2012 and 2013; points out furthermore that 468 of 503 available posts had been occupied and 95 contract agents and seconded national experts were employed by the end of 2013;	In 2013 ECHA started a new legislative mandate under the EU Biocidal Product Regulation. This required the recruitment of new experts for which the European Parliament and the Council approved the establishment plan posts. The activities are partly fee financed. Due to a lower than predicted market activity in the initial phase, not all posts in the establishment plan were used in 2013. The situation has changed in 2015 when the increased market activity required the recruitment of new experts.	On-going
13. Notes that the Agency followed the recommendations in the Special Report of the Court No 15/2012 on the management of conflicts of interests in selected EU Agencies and expects the Agency to strictly apply them;	ECHA has indeed implemented the recommendations from the Special Report and is regularly reviewing and updating its conflict of interest policies. In June 2015 ECHA replied to a follow-up questionnaire by the Court to report on the implementation of the recommendations.	Done

14. Notes with concern that the Agency grants registration numbers - the pre-condition for being allowed to continue the manufacture or the placing on the market of a chemical substance - after a simple automated completeness check; notes, however, that it does not withdraw registration numbers, even when the clear and persistent non-compliance of registration dossiers has been found;	ECHA notes that the completeness check was designed as an essentially automated process, especially as it concerns tens of thousands of dossiers. It is not a licensing scheme. Nevertheless, ECHA is aiming to include manual checks in this process, as far as this is legally and practically possible. ECHA does revoke registration in certain situations but has so far not identified situations where to make use of the possibility to withdraw a registration number after completion of all steps of compliance check were exhausted.	On-going
15. Notes with concern the high level of non-compliant registration dossiers and that the Agency refrains from naming and shaming non-compliant companies;	Improving the quality of information submitted by industry is ECHA's first strategic objective. ECHA publicly reports on its findings in relation to compliance of registration dossiers in the context of its annual evaluation progress report. As a rule, comprehensive information from all registration dossiers, including the names of the registrants, is published on ECHA's webpage. Compliance with the law is, however, essentially the responsibility of the industry. ECHA undertakes compliance checks in accordance with the applicable legislation but cannot perform checks on all dossiers. By selecting mainly through intelligent means than random choice, it is normal that a high proportion of its compliance checks lead to decisions. It is to be noted that non-compliance has varying levels of impact on the safe use of the substance, ranging from minor to major and depending on the case. In addition, the Agency uses a range of tools to help industry to improve the quality of dossiers. Among other measures, ECHA aims to foster compliance via dialogue with registrants, sending letters on regular shortcomings and has also established a good cooperation with national enforcement bodies.	On-going
16. Acknowledges the fact that the Agency has transparent declarations of interests and invites the Agency to continuously review its internal processes and further improve its policies in order to ensure the independence and transparency in all of the Agency's work areas covering both external and interim staff;	ECHA published the declarations of the members of all formal bodies, as well as those of its management and the Board of Appeal on its website for public scrutiny. Both external and interim staff are covered by ECHA's conflict of interest procedures.	Done

19. Notes the actions taken in order to improve communication between the Agency and its beneficiaries; observes in this regard the development of IT tools such as Frequently Asked Questions or technical guidance and the publication of a roadmap in the run-up to the registration deadline, as well as support for national help-desks; considers that the Agency should reach out more to downstream users;	ECHA has indeed substantially increased its communication efforts, in coordination with the Member States, to make sure that all companies will be fully aware of the upcoming 2018 registration deadline and will continue doing so in the years to come. ECHA has developed measures to help Downstream Users to better understand their role under REACH/CLP and in particular to improve the supply-chain communication on safe use. These comprise improved web-pages, interactive support material, videos, webinars, workshops presentations, and articles in professional media. ECHA provides a wide range of multi-lingual support tools for industry online.	Done
20. Notes with concern the way the Agency applies the authorisation process as part of the REACH Regulation, with a focus, above all, on providing help to companies to obtain an authorisation for the use of substances of very high concern rather than help companies to the same extent in order to encourage the substitution of the most hazardous chemicals and innovation by swapping them for safer alternatives;	ECHA has put much effort to ensure that the authorisation decisions taken by the Commission would be based on fit-for-purpose applications by industry and good quality opinions by the scientific committees of ECHA. In a conference in February 2015 with all stakeholders present, it was concluded that the process works well, treats companies equally and is fair and transparent. Notwithstanding, ECHA is discussing with the Commission and Member States further options for streamlining the system and to encourage substitution. In future, ECHA will act in a more pro-active manner when requesting input for consultations on alternatives.	On-going
21. Notes with concern that the Agency does not properly assess confidentiality claims in the context of authorisation applications;	Contrary to the registration process, no procedure exists in REACH for making or assessing confidentiality claims in the Authorisation process. ECHA needs to publish information with the aim of having a meaningful, transparent and trustworthy public consultation on the alternatives. Therefore it asks companies to provide non-confidential versions of documents. In 2014, ECHA changed the application formats to further increase transparency on which parts are marked confidential. Since then applicants have reduced the proportion of text marked confidential so that over 90% of the information is disclosed in the public versions of applications. Moreover, all discussions in the committees are being held in open sessions with stakeholder observers present.	On-going
26. Notes with concern that the Agency's Executive Director made a reservation regarding his declaration of assurance for the year 2013, since the Agency's mandate does not include controls or inspections at national level and therefore, no confirmation could be given that only registered or authorised substances and products, for which a fee was paid to the Agency, were circulating on the Union market;	The reservation was added in response to comments made by the audit team from the Court of Auditors. Indeed, ECHA is not in charge of enforcing EU chemicals legislation at national level and can, therefore, not guarantee that all actors have complied with their duties.	N/A

27. Welcomes the exemplary measures taken by the Agency with regard to cost-effective and environment-friendly solutions; encourages the Agency to continue the good practice;	ECHA has indeed received the ISO 9001:2008 certification. It continues to work to increase the efficiency and effectiveness of its operations and will apply for the same certification for its PIC and BPR activities. Furthermore, ECHA will proceed with the integration of an environmental management system (EMS) into its quality management system.	On-going
28. Asks again that the Agency make clear in its internal and external communication that it receives funds from the general budget of the Union ("Union subsidy") instead of a "Commission" or "Community" subsidy;	ECHA will make clear in all its budgetary communication that it receives funds from the general budget of the Union.	Done
The Council, while acknowledging the multiannual nature of operations, calls, once again, on the Agency to continue improving its financial programming and monitoring of the budget implementation in order to reduce the level of commitments carried over to the next financial year to the strict minimum, in line with the budgetary principle of annuality.	ECHA will continue to be attentive to the level of carry-overs in operational titles.	On-going