

Code of conduct for observers at ECHA meetings

AS THE EXECUTIVE DIRECTOR OF THE EUROPEAN CHEMICALS AGENCY

I HAVE DECIDED THE FOLLOWING:

1. Purpose of the stakeholder observers' attendance and their role

Following Articles 85(4) and 86(1) of Regulation (EC) No 1907/2006 ('the REACH Regulation'), ECHA welcomes the attendance of observers from stakeholder organisations (hereafter referred to as stakeholder observers) at the meetings of the Committees, Forum and other ECHA networks, selected by the respective body or network. The purpose of admission of stakeholder observers is to:

- help build trust, confidence and accountability in the work of ECHA and its bodies and thus to contribute to meeting the aims of transparency and openness;
- benefit from the specific scientific and technical expertise and knowledge of the stakeholders to ensure high scientific quality of the conclusions;
- where appropriate, benefit from the direct interest representation, input and views of the different stakeholders to ensure well informed and balanced conclusions of the body that receive broad acceptance;
- whilst respecting the requirement of protection of confidential data and confidentiality of the deliberations, contribute to the overall communication from ECHA and its bodies to the various stakeholder organisations.

In this light, the role of stakeholder observers in the meetings can be seen as two-fold:

- to provide, on request, technical and scientific input based on the specific expertise and knowledge of the interest group in question;
- to contribute to the appropriate information flow from ECHA and its bodies to stakeholders.

2. General rules

Only a limited number of stakeholder observers can be physically and/or remotely, accommodated at the meetings. The opportunity for attendance carries certain responsibilities. It is the duty of each stakeholder observer to:

- behave with due and proper respect for the meeting proceedings and towards all the members and other participants;
- abide by the rules of procedure of the body in question and this code of conduct.

Stakeholder observers are expected to apply the general principles of openness, transparency, honesty and integrity when participating in the work of ECHA while respecting applicable confidentiality requirements. They shall always ensure that, to the best of their knowledge, information which they provide is relevant to the case, unbiased, and where possible complete and up-to-date.

3. Identification of stakeholder observers

Stakeholder organisations that are invited to nominate a stakeholder observer to an ECHA body or network are expected to ensure:

- a. **Expertise:** The organisation is expected to nominate a knowledgeable observer who can follow, understand and if requested, also contribute to the scientific and technical discussions. In justified cases and with the permission of the Secretariat, the observer may be accompanied by one other person possessing specific expertise required during the discussion on a particular agenda item. Such persons have to be duly notified in writing to the Secretariat at the latest 10 days prior to the meeting concerned.
- b. **Continuity:** The organisation should nominate one person who regularly follows the meetings. Another person can be nominated as a back-up. A notice to the Secretariat, at the latest 10 days prior to the meeting concerned, is necessary if the nominated person needs to be replaced.

To avoid situations of unfair treatment of case owners (such as registrants or authorisation applicants whose cases are to be discussed by a Committee) and other third parties directly affected by the conclusions of a Committee, the stakeholder organisations shall avoid nominating, as observer, persons who can potentially have a direct interest in the cases dealt with by any Committee. If such a conflict of interest arises or could arise, the regular representative of the stakeholder organisation should declare the interest at the beginning of the meeting.

4. Participation at meetings

General

Stakeholder observers shall respect the work of the body in question. Stakeholder observers shall not interfere with members, their advisers, invited experts, other observers or the Secretariat in any way which, in the view of the Chair, constitutes harassment and/or may hinder the work of the body or network.

Stakeholder observers shall attend meetings at the discretion of the Chair and shall not attend any closed sessions of the meeting. The Chair can decide to hold a closed session at any point in time before or during a meeting.

Interventions

Where relevant and appropriate, the Chair may invite stakeholder observers to participate in the discussions. The stakeholder observers should normally signal in advance to the Chair (the latest at the start of the meeting) on which points they wish to intervene. These interventions should be brief and the time allocated by the Chair shall be respected.

Use of recording equipment

The use of audio and/or visual recording or photographing equipment shall be prohibited during the meetings and breaks, including during remote meetings.

Mobile telephones

Mobile telephones shall be switched off or put in 'silent' mode during the meeting.

Remote participation

All the rules in this document also apply to meetings organised by ECHA that allow remote participation. The following additional rules shall be respected by stakeholder observers when participating remotely:

- Stakeholder observers shall identify to the Agency the person nominated to attend a meeting remotely;
- Stakeholder observers must ensure that they have the appropriate technical equipment to attend these meetings and they should use only a computer that is under their (organisation's) control;
- Stakeholder observers shall participate in such meeting from a private location;
- Invitations are personal and non-transferable, i.e. there may be no other persons present in the room at the remote location;
- Webex or other remote connections may not be recorded, relayed or broadcast for any reason;

- Stakeholder experts may participate from a different location than the location at which the stakeholder is located.
- The stakeholder observer is responsible for the conduct of their designated expert.

5. Confidentiality

Stakeholder observers shall respect the rules on confidentiality laid down in the rules of procedure of the body or network. They shall sign a declaration of confidentiality, including therein an acceptance notice of this Code of Conduct, before their first attendance to a meeting. The stakeholder observers shall, as a rule, not get access to any documents containing confidential business information, other confidential information or documentation relating to the agenda points where their participation is excluded. In exceptional cases where access to such confidential documents is granted, or accidentally received, the rules on confidentiality shall apply.

The declaration of confidentiality in practice implies that stakeholder observers are allowed to share non-confidential meeting documents to which they have been granted access with their constituencies (hierarchy and members of the organisation) but they shall not make them or their content publicly available unless they are already publicly available. The stakeholder observers may in general terms report to their constituencies about the discussions held at the meeting but they shall respect the confidential nature of deliberations and views of individual members. Furthermore, reports to media or organisation's own media channels shall respect the same conditions.

6. Documents distributed by stakeholder observers

Stakeholder observers can be allowed to submit their own documents subject to prior permission from the Chair. Such documents may be circulated by the Secretariat, subject to the approval by the Committee chair. The documents shall be marked with 'for information' and shall indicate clearly which organisation is responsible for them.

Observers distributing such documents shall remain responsible for their content, and distribution cannot be interpreted as a validation or agreement to their content by the Secretariat. The documents shall not repeat information already submitted e.g. in the context of a consultation.

Only documents that have been submitted to the Secretariat at the latest 10 days before the meeting may be made available to the members of the Committee electronically. Late documents, the distribution of hard copies of documents in the meeting, as well as (Powerpoint) presentations at the meeting will not be accepted, unless exceptionally approved by the Chair. Members of the ECHA bodies shall have the prerogative not to take into consideration such

late documents in any decisions taken at the meeting, since they have been distributed after the formal deadline for distribution of documents.

7. Meeting minutes

A record of key points made by stakeholder observers may be included in the minutes but the final decision on the wording of the minutes will be made by the relevant body or network.

8. Respect of the code of conduct

Stakeholder observers are requested to sign a declaration of confidentiality, including therein an acceptance notice of having received, read and accepted to respect this code of conduct.

Inappropriate behaviour or failure to conform to this code of conduct may lead the Chair to exclude a stakeholder observer from the meeting in question and potentially from future meetings of the body or network. The corresponding stakeholder organisation may subsequently be requested to consider a replacement.

9. Effective date

This decision shall take effect from the date of approval.