

Intermediate Report on Transfer of a Proportion of fees to the Member States

42nd Meeting of the Management Board 22-23 June 2016

Item	16.2
Action	For information
Status	Final - public

Key messages

The Management Board is invited to take note of a report from the last meeting of the Working Group on the Transfer of Fees on 17 May 2016.

Based on the data and report provided by the ECHA Secretariat, the Management Board Working Group on the transfer of fees concludes that it is not required to launch a revision at this stage of the Management Board Decision on the financial arrangements for the transfer of a proportion of fees to the Member States.

Background

According to the REACH Fee Regulation¹, a proportion of the fees collected by ECHA should be transferred to the relevant competent authority of the Member States for work done in the context of a substance evaluation procedure or for rapporteur work done in both the Committee for Risk Assessment and the Committee for Socio-economic Analysis in the context of restrictions, proposals or applications for authorisations pursuant REACH Regulation².

The current Decision of the Management Board of 17th December 2014³ lays down the financial arrangements for the transfer of a proportion of fees to the Member States for the period 2015-2017. Also a provision was included which foresees a mid-term review to be launched in March 2016 and a report to the Management Board.

According to the Decision, the focus of the review should be on the following questions:

1. Are the set ceilings approached before the end of the period in 2017?

The Management Board set the ceilings as follows:

25% of the base fees for authorisation applications and reviews	for Rapporteur work done in RAC and SEAC in the context of an authorisation application
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¹ Commission Regulation (EC) No 340/2008 of 16 April 2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), and in particular Article 14 thereof.

² Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

³ MB decision No 45/2014.

5% of the Agency's REACH registration fee income for that period, and the remaining fee reserve at 31.12.2014	for substance evaluation tasks by a Member State Competent Authority or rapporteur work done in RAC and SEAC in the context of a restriction proposal.
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The absolute ceiling for the transfers to Member States 2015-17 was set to EUR **12.5M**

2. Is the work of Member States under the REACH Regulation overly affected by the current arrangements?

Key considerations here are:

- The revised country coefficient where the latest Eurostat data available in 2014 lowered the coefficient for some countries.
- A provision in the Decision according to which the substance evaluation man day assumptions are respectively 75 days in 2015, 70 days in 2016 and 65 days in 2017. The annual decrease assumes efficiency gains achieved by the Member State authorities based on growing experience with substance evaluations and simplified reporting.

Rationale

Based on data and a report provided by the ECHA Secretariat (see attached report and its annexes), the MBWG on transfer of fees concluded in its meeting on 17 May 2016 that it is not required to launch a revision of the Management Board Decision on the financial arrangements for the transfer of a proportion of fees to the Member States.

Alternative options

The Management Board could alternatively decide to launch a review of the MB decision 45/2014 already now in 2016 instead as foreseen in 2017.

Drawbacks

There seem to be no immediate drawbacks to the proposed no-action, unless there would be an unmaterialised benefit for the Agency and the Member States if the decision is not reviewed earlier.

Attachment:

- Intermediate Report on Transfer of a Proportion of fees to the Member States

For questions: mb-secretariat@echa.europa.eu

Intermediate Report on Transfer of a Proportion of fees to the Member States

Background

According to the REACH Fee Regulation⁴, a proportion of the fees collected by ECHA should be transferred to the relevant competent authority of the Member States for work done in the context of a substance evaluation procedure or for rapporteur work done in both the Committee for Risk Assessment and the Committee for Socio-economic Analysis in the context of restrictions, proposals or applications for authorisations pursuant REACH Regulation⁵.

The current Decision of the Management Board of 17th December 2014⁶ lays down the financial arrangements for the transfer of a proportion of fees to the Member States for the period 2015-2017. Also a provision was included in Article 7(4) which foresees:

"Article 7- Review and reporting

[...] At the end of 2015, a mid-term review will be launched.

4. In March 2016, a report shall be presented to the Management Board Working Group on transfer of fees which will report to the Management Board."

According to the Decision, the focus of the review should be on the following questions:

1. Are the ceilings set approached before the end of the period in 2017?

The Management Board set the ceilings as follows:

25% of the base fees for authorisation applications and reviews	for Rapporteur work done in RAC and SEAC in the context of an authorisation application
5% of the Agency's REACH registration fee income for that period, and the remaining fee reserve at 31.12.2014	for substance evaluation tasks by a Member State Competent Authority or rapporteur work done in RAC and SEAC in the context of a restriction proposal.

The absolute ceiling for the transfers to Member States 2015-17 was set to EUR **12.5M**

2. Is the work of Member States under the REACH Regulation overly affected by the current arrangements?

Key considerations here are:

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- A provision in the Decision according to which the substance evaluation man day assumptions are respectively 75 days in 2015, 70 days in 2016 and 65 days in 2017. The annual decrease assumes efficiency gains achieved by the Member State authorities based on growing experience with substance evaluations and simplified reporting.

⁴ Commission Regulation (EC) No 340/2008 of 16 April 2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), and in particular Article 14 thereof.

⁵ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

⁶ MB decision No 45/2014.

Matters for consideration

Are the ceilings set approaching too quickly?

The Secretariat updated Annex 3 of the above mentioned Management Board document which sets out the maximum proportions of fees transferable. According to the updated commitment figures, there is currently no indication that the ceilings are approaching too quickly. Even though higher numbers for authorisation applications are expected in 2016/17 and only limited substance evaluations invoices have been received yet from Member States under the current Decision, there appears to be no need to trigger a premature revision of the Management Board Decision.

Ceilings	2015 data	Total 2015-2017 (forecast)
<p>25% of the base fees for authorisation applications and reviews for Rapporteur work done in RAC and SEAC in the context of an authorisation application⁷</p> <p><i>(Total reimbursements committed for authorisations divided by income collected from authorisations)</i></p>	<p>16,2%</p> <p><i>(For 2015: 117 751 / 728 239 = 16,2%)</i></p>	<p>23,8 %</p> <p><i>(Same calculation method)</i></p>
<p>5% of the Agency's REACH registration fee income for that period, and the remaining fee reserve at 31.12.2014 for substance evaluation tasks by a Member State Competent Authority or rapporteur work done in RAC and SEAC in the context of a restriction proposal</p> <p><i>(Total reimbursements committed for substance evaluations and restrictions divided by income collected from registrations, CLP and starting reserve for the period)</i></p>	<p>1,4%</p> <p><i>(For 2015: (1 438 484 + 88 438) / (21 720 585 + 134 147 + 87 189 693) = 1,4%)</i></p>	<p>3,2%</p> <p><i>(Same calculation method)</i></p>
Absolute ceiling for the transfers to Member States 2015-17: EUR 12.5M	EUR 1 644 673	EUR 6 165 750

Is the work of Member States under the REACH Regulation overly affected by the current arrangements?

The Committees currently proceed according to the work planning with their work on substance evaluation, restrictions and authorisation applications. The Committee Chairmen do not report difficulties in allocating cases to rapporteurs due to the transfer of fees.

⁷ According to Article 2(3) of the MB decision 45/2014 on the transfer of fees, the scale of payment consists of 12,5% of the authorisation application specific base fee per rapporteur of each Committee. In order not to penalise Member States that work on applications submitted by SMEs, which pay a reduced fee, the same article also defines that the application specific base fee is always calculated to consist of 76,6% of the standard base fee (for large companies), regardless of the identity of the applicant. Therefore, there is a risk to exceed the 25% ceiling only if ECHA starts receiving applications predominantly from SMEs who pay a reduced fee, while ECHA continues to transfer to the Member States an amount based on 76,6% of the fee for large companies. Currently, based on data from 77 applications, there are no elements that would support such a scenario. ECHA will continue to monitor this closely and alert the Board when needed.

As regards the effects of the assumed efficiency gains in the Member States for substance evaluation cases, the time-recording sheets received in March 2016 for the evaluations started in 2015 provide some indications that the evaluating MSCAs have spent on average less time per substance than in previous years. For more than 60% of evaluated single substances, the time spent was less than 75 days. ECHA is requesting evaluating Member States to indicate the reasons of exceptional workload peaks recorded in some isolated cases to possibly prevent incidental factors in the future. The experience of evaluating groups of substances was limited to four cases in 2015 and is not sufficient to draw any firm conclusion, but provides preliminary indications that grouping tends to reduce the time spent per substance as was expected. Apart from one exceptional case that is now under scrutiny, in the other three cases the actual time spent was lower or slightly higher (by less than 20%) than the estimated reduced workload used as basis for payment. Moreover, besides simplified reporting, ECHA has taken additional measures to improve efficiency and release workload of Member States under Substance Evaluation that should start to show effect mainly from 2016 onwards:

- Closer interplay Substance Evaluation (SEv) - Compliance Check (CCH). All standard data gaps will be normally addressed by ECHA under CCH. When necessary, requests are moved to CCHs for ongoing SEvs.
- Better targeting. Member States are recommended to narrow the scope of SEv in view of potential regulatory follow-ups.
- Enhanced support in drafting of SEv draft decisions. ECHA is improving templates and developing standard text.

ECHA will also provide further support in drafting during the following decision making phase, including a "verification step" and mandates for "finalisation of decisions after MSC". Therefore, all indications show that the Member States will have opportunities to gain efficiency with regard to the work on substance evaluation.

Concerning the country coefficients, it should be noted that the index attached to the Management Board Decision can be updated by the Executive Director, once sufficient new data from Eurostat is available. At this stage, there is not sufficient new Eurostat data to update the correction coefficient related to the maximum proportion of the fees which can be transferred to Member States. The Secretariat will keep the Management Board informed about future updates to the table. The Member States are also encouraged to provide to their national statistics office the necessary data in due time so that the Management Board decision in 2017 can be based on 2014 data (instead of 2010 data as currently).

Conclusion

On the basis of the above mentioned, the MBWG concludes that it is not required to launch an premature revision of the Management Board Decision on the financial arrangements for the transfer of a proportion of fees to the Member States.

Attachments:

- Annex 1: Current version of the Management Board Decision on the transfer of fees to Member States
- Annex 2: Document MB/34/2014 Annex 1
- Annex 3: Updated table with the maximum proportions of fees transferable (March 2016)
- Annex 4: Comparison of the transfer of fees paid per Member State in 2014 and 2015
- Annex 5: Comparison of the time spent for substance evaluation in 2014 and 2015