

Procedure and practical arrangements for the appointment of the Executive Director

45th Meeting of the Management Board 30-31 March 2017

Proposal

The members of the Management Board are invited:

- to agree on the procedure and practical arrangements for the appointment process.
- to express their interest in joining a Preparatory Group for the interviews of candidates.

Background

The 2nd mandate of Geert DANCET as Executive Director (ED) ends on 31 December 2017. The European Commission consulted the Management Board (MB) on a draft vacancy notice in June 2016¹. The vacancy was afterwards published in the Official Journal of the EU and in other periodicals and on internet sites (deadline for applications by 11 November 2016)².

A Commission Pre-selection Panel examined all applications with the objective of establishing a list of candidates who are considered to have the best profile for the post, and invited the most suitable candidates for an interview. The MB appointed Thomas JAKL as observer³. The Panel interviewed candidates in February. Applications that succeeded were submitted for a further assessment to the Commission's Consultative Committee on Appointments (CCA), an advisory body for senior management posts which includes an assessment by a specialised recruitment office. On the basis of the CCA recommendations, the Commission will establish a final list of candidates, after an interview with the responsible Commissioner(s).

Before being appointed, the candidate nominated by the MB shall be invited to make a statement before the European Parliament and to answer questions from Members of Parliament.

The process outlined above follows the terms of the REACH Regulation⁴ which also contains the following provision: *"The ED shall be appointed on the grounds of merit and documented administrative and management skill, as well as his relevant experience in the fields of chemical safety or regulation. The MB shall take its decision by a two-third majority of all members with a right to vote."*

It follows that the Agency's legal basis provides both the selection criteria to be applied by the MB and the majority needed to be elected. By contrast, it does neither define how the assessment of the candidates against the selection criteria should be organised nor does it lay down the details of the voting procedure.

The objective of the present document is to fill these gaps.

¹ MB/24/2016

² Official Journal C 372 A – 11/10/2016

³ MB/34/2016

⁴ See Article 84 of Regulation (EC^o N^o 1907/2006 of 18 December 2006

Rationale

The role of Thomas Jakl as observer in the pre-selection process has ended. The applicable Commission guidelines foresee no further involvement in the CCA or subsequent processes.

Once the Commission submits a list of candidates, it is the responsibility of the MB to carry out the selection process in an independent manner, on the basis of the criteria in the REACH Regulation. The Board should make its own arrangements for ensuring a solid appraisal.

Preparation of the interviews

After submission of the Commission's list, the Chair should send a letter to the candidates, inviting them for an interview with the MB.

The shortlisted candidates should also be asked to supply, in due course before the interview, with a *curriculum vitae* as well as with a motivation letter and other relevant supporting material, in particular a Declaration of Interests. This material should enable the MB to assess their candidature in terms of merits, skills and experience needed, and to verify the compliance with the ECHA eligibility criteria⁵.

To prepare the interviews, a preparatory group of up to six persons from among the members could be selected. They prepare a list of standard questions and a summary of the candidates' experience regarding the criteria in the REACH Regulation⁶.

General running of the meeting

The appointment can either be dealt with at a regular meeting or at an extraordinary meeting. The Secretariat estimates that two half days meeting days will be required for choosing the ED. The 1st day would be devoted to the interviews; the 2nd day to discussions and the voting.

Only MB members and EEA/EFTA observers will be invited to (that part of) the meeting. In case a member cannot attend, he/she may nominate a person of trust and provide a proxy to another member with voting rights. There shall be no additional representatives allowed to the meeting (except for the observer in the Pre-selection process).

From the Secretariat, there will be the Executive Director, the Head of the Legal Services, the Secretary of the MB and a notetaker to assist the vote and record the meeting, unless they have a conflict of interest. They do not participate in the discussions on the candidates.

Organisation of the interviews

First the MB should hear a report from the observer to the Commission Pre-selection Panel.

Candidates will then be heard in alphabetical order of surnames. Each candidate should be offered 5 minutes to present himself. This should be followed by questions and answers, starting with the prepared standard questions put to the candidates by the members of the Preparatory Group (30 min). Afterwards, members will be given the opportunity to ask additional - short - questions related to the candidates presentation and/or answers given to the standard questions (10 min). At the end, each candidate will be invited to make a closing statement (5 min). Buffer time (15 min) will be provided between the interviews for members to make personal notes.

⁵ [MB/45/2013 final, section 2](#)

⁶ The preparatory group could invite members to submit suggestions confidentially. The final questions will only be shared with other members shortly before the interviews. The MB will at a later stage appoint three of its members, including a Commission representative, to act as reporting officers for the new ED. Their tasks will be to prepare the probationary period report and subsequently annual appraisal reports. Some members of the preparatory group could become reporting officers.

Vote(s) on the selection of the candidate

The Board may after the interviews have a general discussion.

In the meantime, practical arrangements will take place, to organise the voting on the candidates after this discussion. It is suggested to apply the provisions of the MB Rules of Procedure on the election of the Board's chairpersons by analogy and with some fine-tuning⁷.

The procedure should be as follows:

- Announcement of proxies
- Voting by secret ballot (Members write the name of the preferred candidate on a ballot paper handed out by the Secretariat. Blank ballots count as abstention).
- Two tellers, acting under the supervision of the Chair, will be designated among the members without voting rights to assist in the counting of the vote.
- In the first ballot, the candidate who receives at least two-thirds majority (i.e. at least 22 votes) of all members with voting rights is selected.
- If none of the candidates receives a two-thirds majority, further rounds will be held. At each round, the candidate with the lowest number of votes will be withdrawn. When it is not possible to determine the candidate with the lowest number of votes due to equality, there will be a special ballot to determine the remaining candidate. This process will continue until the last two candidates have been determined.
- A maximum of three voting rounds will then run with two candidates until one receives two-thirds favourable votes of the Management Board members with voting rights. Between these rounds, breaks (coffee/lunch) will allow for discussion among the members.
- Should none of the two candidates receive 22 favourable votes in these three rounds, the MB will either postpone the decision to a next, possibly extraordinary - meeting, or – if the number of abstentions would not allow any candidate to achieve 22, to cancel the recruitment process and ask the Commission to restart it.

Appointment process

The candidate will be informed of the outcome of the vote. The formal appointment of the successful candidate is subject to his/her prior appearance before the European Parliament (EP).

The Executive Director-designate will be contacted by the MB Secretariat to make the arrangements necessary for the Parliamentary hearing⁸.

The EP will after the hearing write to the Agency, informing of its findings. On receipt of this letter, the Executive Director-designate will undertake a medical examination, in case this is required prior to a formal offer of employment as ECHA staff member.

Assuming a positive conclusion of the steps above, the ED's employment contract with ECHA will afterwards be signed by the Chair⁹. The new ED will be in office on 1 January 2018 or as soon as possible after that date.

Integrity of the procedure

Any member who is or has been a candidate in the procedure shall declare this and abstain from

⁷ Article 7 of MB/51/2012

⁸ Committee for Environment Public Health and Food Safety

⁹ Depending on the timing of the process, the Management Board will either authorise its Chair in its meeting of 14-15 December 2017 to sign the employment contract, or be asked to adopt in this or the preceding extraordinary meeting a delegation to the Chair for this purpose.

the decision making on the present procedure, and also not participate otherwise in the preparations of the interviews.

Any member who will be listed for interviews at Management Board level may only attend his/her interview and will not be able to participate in the meeting, nor will she/he be able to give a proxy to another member.

This follows from the provisions of the REACH Regulation¹⁰ and the rules on conflict of interest¹¹.

Alternative options

The proposed procedures and practical arrangements can be modified within the limits of the provisions of the REACH Regulation and other applicable rules, such as ECHA's policy on avoiding potential conflicts of interest. The Management Board may in particular require more time to fully consider the candidates after the interviews and postpone the vote to a subsequent meeting.

Drawbacks

The process applied should ensure that the best candidate for the post can be appointed by the Management Board in due time to take over the duties from January 2018. At the same time, the Management Board should ensure a high degree of transparency and integrity of the process.

Attachment:

- Extract from the REACH Regulation

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

¹⁰ Articles 82 and 88

¹¹ [Management Board Decision 09/2014](#)

Article 84 of the REACH Regulation (EC) No 1907/2006

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.