EUROPEAN CHEMICALS AGENCY

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GD/bb

Ms Emily O'Reilly
European Ombudsman
1 Avenue du Président Robert Schuman
CS 30403
F- 67001 Strasbourg

Subject: ECHA's Approach to Transparency

Your ref: OUT2014-003926

Dear Ms. O'Reilly,

In follow-up to my letter of 30 October 2014 on the topic of transparency (reference D(2014)4896), I am pleased to announce that ECHA's Management Board has adopted in December a paper called "ECHA's Approach to Transparency" (see annex).

As communicated to you earlier, this initiative aims to consolidate all current initiatives of the Agency to foster transparency into one single document. The paper was developed with direct input from the Accredited Stakeholders[1] of the Agency and also the members of the CARACAL (a Commission expert group bringing together the competent authorities for REACH and CLP in the Member States, including also observers from a variety of stakeholder organisations) were consulted.

As transparency is a continuous commitment and further improvements are always possible, the Agency did not stop there. Besides documenting the current state of play, ECHA also invited the stakeholder organisations to indicate the areas in which they believe the Agency can still improve at its annual stakeholder workshop of 9 October 2014. ECHA committed to take up the main ideas that were prioritised by all stakeholders and as a result, ECHA agreed to work on the following topics in the coming two years:

1. Further developing ECHA's work to improve the dissemination of information on chemicals and extending it to cover decisions taken by the Agency, so as to give a "start to finish" picture of what's happening to dossiers and substances;
2. Improving our communication, by reviewing the website structure and making all our communication clearer;
3. Improving the transparency of Committee meetings, by providing more explanation and information on the processes and decision making and by reviewing observer and third party involvement.

[1] Before stakeholder organisations can participate in the work of the Agency, they go through a process of Accreditation. Organisations will be accredited if they meet four simple criteria:
1. They are legally established within the EU/EEA and have activities at the EU level;
2. They have a legitimate interest in ECHA's areas of work;
3. They are representative in the field of their competence;
4. They are non-profit making and do not exclusively represent individual companies.
Once accredited, they are invited to participate in a variety of ways: providing feedback, providing strategic input to ECHA's planning at an annual workshop, testing new products, jointly producing material (guidance, web content, publications), attending and presenting at workshops and events, presenting their work to ECHA's staff, participating in a communications network, and observing the Agency's key decision making meetings. Before they can participate in the formal meetings, they must meet an additional fifth criterion: they are registered in the Commission's Transparency Register (in case they wish to participate as observers in the Committee and Forum meetings of ECHA).

A detailed roadmap for the implementation of each of the above actions received the support of ECHA's Management Board at the December 2014 meeting. While the improvement actions planned are quite ambitious and include considerable improvements for the stakeholders and the public at large, they also need to be realistic in the light of the general resource constraints in the years to come. The responsible ECHA Directors performed a cost/benefit analysis of the ideas collected and came forward with the following concrete proposals for their implementation.

1. Enhanced dissemination portal

ECHA's stakeholders have clearly indicated that continued efforts in dissemination of information on chemical substances and the enhancement of the usability of that information is their number one priority.

ECHA is keen to make information on chemicals and ECHA's processes more user friendly for wider audiences. The intention is to first better integrate the information on a specific substance arising from different legislation and regulatory processes (e.g. REACH and Biocidal Products) so that the user can, at a glance, get an overview of the available data for that substance. ECHA also plans to help users by alerting them to new information published. This would further empower industry and civil society to scrutinise the information, make use of it more easily and draw attention to any incoherence or inadequacies.

The development of a new generation of the IT system for Dissemination is currently ongoing and will gradually be rolled out during 2015 and 2016, including:

- Infocards and substance Brief Profiles, presenting a substance centric overview of the substance's main regulatory processes, links to associated evaluation decisions, as well as an overview of the substance's main critical properties. Both outputs are being designed and structured to be as user friendly and understandable as possible, in close collaboration with ECHA's stakeholders.
- Improved search functionalities and advanced search functionalities by chemical properties.
- Increased automation of data processing (and therefore an increase in the frequency and promptness of updates).

The integration work will also include more processes in the Infocards and Brief Profiles levels and improve the process flow visualisation. The publication of other relevant decisions will also be further assessed and expanded after the first release in 2015.

Besides the ongoing work on the Dissemination system, other important projects are ongoing in 2015 which will be the foundation of the future of dissemination. The data-integration project will ensure that data on substances generated in the different ECHA processes (e.g. evaluation) is made available centrally in an integrated way. In addition the tracking and tracing of ECHA's evaluation decisions will be improved. These additional initiatives are the building blocks to further increase the visibility and transparency of ECHA's decision-making process.

2. Improving communication

There are already several actions underway and planned which will help achieve the Accredited Stakeholder's recommendation:

1. Simplifying the sometimes legalistic and complex correspondence with individual companies is already underway. The project is led by the Deputy Executive Director. Simpler templates for decisions are being produced, as is a drafting process by which the

quality of decisions and letters can be assured. ECHA's SME ambassador is also working to refine communication towards small and medium-sized enterprises to match their particular needs.

2. Existing content on ECHA's website is under constant review. Recently, newly built areas of the website (chemicals in our life and REACH 2018) have been built that are simpler to use and have simple language. This model will be followed for future updates.
3. ECHA's Helpdesk has a project to improve the user friendliness of answers given to enquiries. Another valuable example of simplification is that Guidance is nowadays accompanied by "Guidance in a Nutshell" available in 23 EU languages and it has been made more easily accessible via the "Support" webpages too.
4. ECHA has produced executive summary documents ("facts & figures") for major corporate reports published by the Agency. These documents aim to summarise the key findings of the reports clearly, transparently and without jargon. They are also translated.

3. Improving the transparency of Committee meetings

ECHA has already made a lot of information available on its website regarding the Committees, memberships, working procedures, and on the more specific processes and outcomes related to the Committees' opinion forming and agreement seeking. However, the Secretariat will continue improving the clarity and understandability of the available information, including analysing any specific feedback or suggestions received from the stakeholders for improvements.

In general, ECHA's Accredited Stakeholders have been able to participate in scientific meetings as observers and express their views where appropriate. Some specific rules have been in place for the process of authorisation applications however.

With regard to the authorisation application process all plenary meetings of the Risk Assessment Committee (RAC) and the Committee for Socio-economic Analysis (SEAC) have until now been held so that Accredited Stakeholders have only been able to observe these sessions without speaking rights. For logistical reasons, industry applicants (i.e. case owners) have not been invited to participate in the Committee discussions on their cases. Furthermore, Accredited Stakeholder's presence in the absence of case owners was thought to lead to claims of unfair hearing, especially if stakeholders were permitted to comment on the cases during plenary sessions.

However, Accredited Stakeholders have participated actively in hearings (so-called 'trialogues') between the two rapporteurs of RAC and SEAC and the applicant. In these trialogues Accredited Stakeholders could discuss the case with the applicant (and with third parties, if appropriate). While all trialogues have been held in "observed" mode, in some cases they ended with a session that was "non-observed" (for reasons of confidential business information).

Recently, after direct feedback from its stakeholders, ECHA has considered several options for increasing stakeholder involvement in the authorisation process, without prejudice to the protection of confidential business information, and has now agreed that Accredited Stakeholder Organisations will in future be allowed specific speaking rights in plenary meetings of RAC and SEAC with the intent of having contributions with regards to consistency and procedural matters. Comments on the cases themselves would be avoided. The 'trialogues' will be retained because they have a well-developed and appreciated function in the opinion-making process.

Additional actions and quick wins

Besides these larger projects, a number of small improvement actions are also in the pipeline that can prove to be quick wins for the transparency of the work of the Agency.

First of all, ECHA is in the process of developing a dedicated 'Transparency' section on its website, which will provide a central entry point for the user that wants to be informed or wishes to get involved in ECHA's decision-making. It will for instance list all public procedures, plans, reports and minutes and give direct access to ongoing public consultations. Furthermore, it will include a clear overview of all regulatory decisions published by the Agency to provide easy access.

Another pending improvement is a specific internal procedure to guarantee all duty holders easy access to their (own) file. This should allow the industry counterparts of the Agency to exercise their legal right of defence with regard to decisions addressed to them.

Finally, the transparency section on the ECHA website will in the near future also include a public view of the agenda of the Executive Director of the Agency. More in particular, by analogy to the recent initiative of the new Commission[2], information will be made available on the meetings held by the Executive Director with stakeholders/interest groups in order to give full transparency on who he meets and who is trying to influence policymaking in ECHA. If this pilot project proves successful, it may in future be extended to all senior managers of the Agency.

Yours sincerely,

[redacted]

Geert Dancet
Executive Director

Annex: ECHA's Approach to Transparency (Final MB/61/2014, 17 December 2014)

[2] C(2014)9051