

Limassol, 17 December 2009

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**DECISION ON RULES FOR THE CALCULATION OF THE
AMOUNTS AND ADVANCES TO BE PAID IN RELATION TO THE
TAKING OF EVIDENCE IN APPEAL PROCEEDINGS BEFORE
THE BOARD OF APPEAL OF THE EUROPEAN CHEMICALS
AGENCY**

(Decision of the Management Board)

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THE MANAGEMENT BOARD OF THE EUROPEAN CHEMICALS AGENCY,

Having regard to Commission Regulation (EC) No 771/2008 of 1 August 2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency (hereinafter the 'Rules of Procedure'), and in particular Article 17(3) thereof,

Having regard to Decision of the Board of Appeal of the European Chemicals Agency on implementing rules on costs relating to the taking of evidence in appeal proceedings (hereinafter the 'Decision of the Board of Appeal'),

Whereas:

- (1) Witnesses and experts can be summoned to appear in proceedings before the Board of Appeal.
- (2) Witnesses and experts who are summoned by and who appear before the Board of Appeal may be entitled to receive payments related to the taking of evidence.
- (3) It is necessary to establish rules for the calculation of the amounts and advances to be paid to witnesses and experts who give evidence in appeal proceedings.
- (4) As a general rule, payments should be made after the witnesses have given their evidence and the experts have fulfilled their duties. An advance reimbursement may however be arranged.
- (5) The present rules for the calculation of the amounts and advances should take into account comparable rules previously adopted by the Management Board and comparable rules existing in other areas of Community law,

HAS ADOPTED THIS DECISION:

Article 1

Scope of application

This Decision provides detailed rules for the calculation of the amounts and advances to be paid to witnesses and experts who are summoned by the Board of Appeal on its own initiative and who appear before it in order to give evidence.

Article 2

Reimbursement of costs

The Guide for the reimbursement of travel and accommodation expenses and payment of subsistence allowances to Management Board members, Committee and Forum members and other participants invited to attend meetings of the European Chemicals Agency (ECHA) (MB/59/2009 final) shall also apply to the reimbursable costs incurred by witnesses and experts in relation to expenses for travel, subsistence and accommodation when appearing before the Board of Appeal.

Article 3

Compensation of witnesses for loss of earnings

1. The compensation payable to witnesses in respect of loss of earnings provided for in Article 17(1) of the Rules of Procedure shall be calculated as follows:
 - (a) If a witness is required to be absent for a total period of 12 hours or less, the compensation for loss of earnings shall be equal to one sixtieth of the amount of the basic monthly salary of a member of the staff of the Agency at the lowest step of grade AD 12.
 - (b) If a witness is required to be absent for a total period of more than 12 hours, the witness shall be entitled to a payment of further compensation equal to one sixtieth of the basic salary referred to in point (a) in respect of each further period of 12 hours which is commenced.
2. The length of the required absence, within the meaning of this Article, includes both the time required for the giving of evidence and for travelling between the domicile or seat of the witness and the place where the hearings are held or the evidence is taken.

Article 4

Remuneration of experts

1. The scale of remuneration set in Article 5 of this Decision shall apply to experts who are summoned by Board of Appeal on its own initiative and who appear before it.
2. Remuneration shall not be paid to experts who are members of the staff of the European Chemicals Agency.

Article 5

Scale of remuneration

1. Experts shall be remunerated according to the following scale:

Remuneration per actual day of work carried out	EUR 300
Remuneration for appearance before the Board of Appeal	EUR 300

2. One day of work shall amount to 7,5 hours of work. An expert summoned by the Board of Appeal shall be remunerated for up to a maximum of two days of work. Experts shall provide a fee note accounting for their services with a detailed justification of the work carried out.

Article 6
Advances

At the request of a witness or an expert, the Registrar of the Board of Appeal may decide that an advance is granted in the form of a pre-paid travel and accommodation arrangement related to their attendance at appeal proceedings. Any such arrangements shall be made in accordance with the Guide for the reimbursement of travel and accommodation expenses and payment of subsistence allowances to Management Board members, Committee and Forum members and other participants invited to attend meetings of the European Chemicals Agency (ECHA).

Article 7
Contractual arrangements

The Registrar of the Board of Appeal shall, in agreement with the Executive Director, put in place the necessary contractual and administrative arrangements in conformity with the financial rules applicable to the Agency.

Article 8
Review

The Management Board shall review this Decision by 31 December 2011.

Article 9
Entry into force

This Decision shall enter into force on the day following its adoption.

Done at Limassol, 17 December 2009

For the Management Board
The Chair

signed

Thomas JAKL