Minutes

Participants: C. Braibant, P. Charlesworth, R. Davies, A. Griffiths, G. Gutekunst, M. Kabs, M. Mistry, M. Raffray, S. Sequeira (representing G. Ganganelli).

The agenda for the meeting is attached (cf. Annex 1).

1. INTRODUCTION.

The Agenda was approved.

2. TECHNICAL ADVISORY PANEL (TAP).

M. Raffray informed the Management Committee (MC) on the outcomes of the last TAP meeting, which was held on the 29/03/07.

2.1. Substance inventories.

Only ten companies (35%) had replied by the time of the TAP meeting (cf. Annex 2). Today, one additional company has sent its inventory. It was agreed to circulate the list of the companies having replied so far in order to ensure some follow-up from the MC itself.
The general substance inventory is a compilation of all the individual substance inventories received so far. It is thus, still subject to completion (e.g. Osmium (Os) has not been identified yet but can still be included in the final substance inventory; Rhenium (Re) on the other hand is not strictly a PGM and a decision on whether to exclude it is required).
For further completion of the final inventory, the blank spreadsheet will be circulated again to the (potential) members of the PM consortia, considering that some of them might have not received the first request in the first place.
It was suggested to remind the members on the importance of the inventories to define the scope of the consortia and to evaluate the applicability of the cost-sharing formula. Additionally, a letter from the MC and a Secrecy Agreement signed by the Trustee (C. Braibant), will accompany the spreadsheet aiming at reassuring the members on secure handling of their confidential information as well as on any additional legal commitment of the Trustee towards the PM consortia.

As regards the interpretation on substance sameness and substance identity in general, the TAP is expecting to use any input coming from the Interpretation Sub-Group of Eurométaux (J. Levison is a member of the TAP as well as of this subgroup). C. Braibant and J. Levison will liaise back to the TAP on any specific decision taken during the REACH Support Project Team meeting (04/04/07) as regards interpretation.
Further clarification and harmonisation on substance identity will be a key task for each relevant PM Work Group (PM WG), in order to have a clear idea on which members have aligned themselves on a common interpretation and which member(s) disagree on such interpretation and intend to use a different approach to register their substance(s). Harmonisation and alignment should not be mandatory but certainly encouraged among the members of each PM Consortium. Any joint or individual interpretation on substance identity shall as much as possible be justified and documented in the most objective and transparent. Where and as necessary, it was agreed to request the input on the Legal Work Group (LWG) to avoid incompatible interpretations.

~ a member of Eurometaux ~
Avenue de Broqueville, 12 – BE-1150 Brussels
Tel. : +32 2 775 63 23 Fax : +32 2 779 05 23 e-mail : braibant@epmf.be

2.2. Alloys.

C. Braibant has circulated the annexes of the last EIMAG meeting (14/03/07) to the members of the TAP for discussion. Specific attention should be put on the flowsheets which have been developed by EIMAG in order to harmonise the assessment of special preparations by the Metals, the Glass and the Rubber sector. The applicability of these flowsheets on the assessment of alloys containing PM should be evaluated by each relevant PM WG.

The core objective of EIMAG under REACH is to prepare a specific HERAG/MERAG Alloys Factsheet. This project should cost around 10 000 € per member per year (this cost has already been considered in the REACH Generic Costs for 2007), during two consecutive years. Further information on the exact context and procedure is still expected. The project has not yet formally started as the consultants have indicated their willingness to participate in the project only if:

- Enough data is available in order to proceed with the elaboration of the factsheet.
- A group of experts is made available to them to peer review the work.

C. Braibant will keep the TAP, the PM WG and the MC updated on the evolution of this specific project. The PM WG will be responsible for inventorying the alloys for each Consortium, only after more specific details are obtained.

2.3. EBRC/EURAS reports.

The reports from EBRC and EURAS have been evaluated by K.-H. Krebs and S. Hottenroth, who have made available summaries of their evaluation for discussion by the TAP.
Both summaries have been reviewed by TAP and an initial assessment of testing proposals against REACH requirements has been prepared. The general conclusions of the evaluation are:

- The information available on the public domain was not as exhaustive as expected,
- The consultant reports tended towards conservative recommendations for testing and there are opportunities for rationalisation (though gaps against REACH Annex requirements were also noted),
- The consultant project brief was for 3 silver group substances – TAP will evaluate how additional substances captured during the Ag inventory compilation will be managed,
- There is a high potential for read-across, especially as much information is available in silver nitrate, which constitutes a reliable "worst case" for silver assessment, and
- TAP will be looking to extract maximum read-across potential from the test plan for costly studies such as those for inhalation or reprotoxicity effects,
- Due to the high cost, reprotoxicity study proposals for higher tonnages has been identified as a key area for application of an intelligent testing strategy.

The current technical evaluation regarding the test program and TAP recommendation for ongoing consultant activities will be confirmed after a meeting with EBRC and EURAS, scheduled for 09/05/07 in Hanover. The MC requested the TAP to solicit an update on the financial estimates to the consultants as soon as possible. C. Braibant and M. Raffray will liaise back to the MC on the outcomes of the meeting.
R. Davies informed the attendees of the meeting on the existence of two American studies on silver. It was agreed that the reference of both studies would be sent by R. Davies to C. Braibant in order to corroborate whether they have been used in the assessments performed by EBRC and EURAS.
M. Raffray indicated that action needs to be taken in order to find the necessary consultants to conduct a data gap analysis for the Gold and the PGM consortia, before consultants having expertise in toxicology and eco-toxicology are no longer available.
M Raffray acknowledged the coordination efforts of K.-H. Krebs and S. Hottenroth on this matter, and MC expressed their thanks to TAP members for progress to date. The MC was encouraged to find additional experts in toxicology and eco-toxicology to be nominated for the TAP.

~ a member of Eurometaux ~
Avenue de Broqueville, 12 – BE-1150 Brussels
Tel. : +32 2 775 63 23 Fax : +32 2 779 05 23 e-mail : braibant@epmf.be

3. LEGAL WORK GROUP (LWG).

3.1. Confidentiality, Non-Use and Non-Disclosure Agreement.

The NDA has been circulated to the members of the MC for approval. A slight amendment has been suggested by Umicore. The amendment was accepted by the MC and will be circulated to the LWG for insertion. The final version of the NDA will be circulated to the (potential) members of the PM consortia for signature by C. Braibant by the second week of April.
Additionally it was agreed to:

- Automatically insert a reminder on Confidentiality and Competition Law as item 1 of any further Agenda for any meeting held within the context of the PM consortia. This should be reflected in the minutes in order to label any information disclosed in the minutes as confidential.
- Continue to use the proposed header on any attendance list for all the face-to-face meetings being held within the context of the PM consortia.

3.2. Agreement on Confidentiality and Intellectual Property.

This Agreement has been circulated to the LWG and should be reorganised under a new format avoiding any confusion between 1) the bilateral commitment to confidentiality which is stipulated in the NDA and 2) this unilateral commitment of the Trustee towards the (potential) members of the PM consortia. The LWG will coordinate the preparation of this unilateral Secrecy Commitment in order to be circulated with the final NDA by the second week of April.

3.3. Competition Law Compliance Guidelines.

A list of Do's and Don'ts for the EPMF and the PM consortia to comply with European Competition Law is being prepared by the LWG. The Guideline will be inserted as an appendix of the final Consortium Agreement and will be made available to any attendee of a face-to-face or a teleconference meeting by the Secretariat (C. Braibant) on request. Additionally, it will be automatically inserted in the header of all attendance lists and as item 1 of any Agenda (cf. item 3.1).

3.4. Consortium Agreement and appendixes.

A first draft of the Consortium Agreement had been circulated to the members of the LWG for comment and to decide on the best option for some specific provisions. This draft Agreement will now be updated with some of the outcomes of the last joint meeting of the LWG and the Cost-sharing Work Group (CWG) (30/03/07). One of the provisions which were agreed on during that meeting is Membership. It was agreed to have:

- A unique membership status: only "Full" or "Regular" membership status will be used in the PM consortia. This facilitates the communication as no specific treatment will be necessary in order to protect confidential data being disclosed to eventual "Non-full" or "Irregular" members contributing less to the overall budget of the PM consortia.
- "Full" or "Regular" member will be defined as a Party who is a potential registrant under REACH requirements. This definition therefore "covers" for:
  - EU manufacturers,
  - EU importers,
  - Only-representatives of the Non-EU manufacturers putting their substances on the EU market,
  - Downstream users who are registering their use.

H. Michaelsen will include the new provisions in the Consortium Agreement and recirculate it to the LWG for final comment. The final draft Consortium Agreement will be submitted to the Management Committee for approval by the 20/04/07 the latest.

~ a member of Eurometaux ~
Avenue de Broqueville, 12 – BE-1150 Brussels
Tel. : +32 2 775 63 23 Fax : +32 2 779 05 23 e-mail : braibant@epmf.be

4. COST-SHARING FORMULA.

4.1. Cost items, PM consortia budget.

One additional cost item for the PM consortia budget was identified during the joint meeting (30/03/07). It concerns the appointment of an Accountant who would work in parallel with the Trustee and the Secretariat of the PM consortia to manage the financial issues of the consortia. The amount of this cost item has not yet been calculated. The MC is requested to evaluate this proposal and to provide a final decision (approval or refusal) by the next teleconference meeting (27/04/07) in order to prepare a formal Accountant position within the PM consortia and to proceed with the relevant hiring un due time (probably at the time of signature of the Consortium Agreement).

4.2. Approved cost-sharing formula.

The complete description of the approved cost-sharing formula(e) is available in the minutes of the joint meeting (cf. Annex 3). The main conclusions as regards the cost-sharing formula are summarised here below.

After an open discussion among the members of the LWG and the CWG, two formulae have been selected during the joint meeting (30/03/07):

- A "simple" approach based on:
  a) The number of substances in the scope to be registered by the member, and
  b) A weight factor for substances and for intermediates, as they compile different registration dossiers.
- A "cost-blocks" approach where:
  a) The first block including the "simple" approach accounting for 50% of the final contribution to the overall REACH Metal-specific costs, and
  b) The second block including a second weighted approach for tonnage bands (weight factors to be tested and approved by the CWG) accounting for 50% of the final contribution to the overall REACH Metal-specific costs.

The "simple" approach will probably be applicable for the PGM Consortium, as the (potential) members of this Consortium do not seem to be widely spread throughout all the tonnage bands.
The "cost-blocks" approach will probably be applicable to the Silver Consortium, as the (potential) members of this Consortium will probably be widely spread throughout all the tonnage bands.
The case of Gold is still unclear as it depends on the outcome of the final general substance inventory (cf. item 2.1.)

4.3. Cost allocation key.

Following the signature of the Consortium Agreement, the REACH Metal-specific costs will be allocated according to the applicable cost-sharing formula (cf. item 4.2.) and the REACH Generic costs will be distributed equally by all the total members of the three PM consortia (cf. item 6.2.).

5. COMING MEETINGS.

- 27/04/07 (15:00): teleconference meeting to clarify doubts and comments on the draft proposals in order to inform the relevant work groups before the final MC face-to-face meeting is held.
- 03/05/07 (11:00): face-to-face meeting in Brussels to come up with a final position on the draft proposals in order to submit them to the EPMF Board.

~ a member of Eurometaux ~
Avenue de Broqueville, 12 – BE-1150 Brussels
Tel. : +32 2 775 63 23 Fax : +32 2 779 05 23 e-mail : braibant@epmf.be

6. ANY OTHER BUSINESS.

6.1. Website.

C. Braibant updated the MC on the status of the EPMF website. The website is prepared in such a way that it will provide a contact portal for interested parties and a restricted-access database for the different work groups. The delay in the delivering of the final website is due to the fact that further work has been necessary to ensure the security of the database. The final website should be on-line by the 20/04/07. All the members of the work groups will receive a login and a password in order to access the documents being used and/or prepared by each work group by the first week of May. It was agreed that C. Braibant would sign the contract with the Web designer on behalf of the EPMF.

To ensure compliance with confidentiality and European competition law rules:

- The (potential) members will have no direct access to the database before the Consortium Agreements is signed. They will have to contact the Secretariat or their representative on the relevant work group to be updated on the advancement of the work.
- The downloaders will be requested to tick an "OK" box which committing themselves to confidentiality and European competition law rules.

The MC is invited to submit comments on the website to the Secretariat by the end of April the latest.

6.2. REACH Generic costs.

It was agreed that the EPMF would provide the necessary financial resources needed to cover the already ongoing PM consortia activities (REACH Generic and REACH Metal-specific costs) until the Consortium Agreement is signed. Once this is done, the signing members will retribute the EPMF according to the approved cost-sharing formula. This will be further reminded at the next EPMF Board meeting (11/04/07).

6.3. Update to the EPMF Board.

The next face-to-face meeting of the EPMF Board for the auspice exercise of the PM consortia is scheduled for the 11/05/07. The EPMF Board is expecting to receive the final drafts of the Consortium Agreement (containing the related agreements and the cost-sharing formulae in its relevant appendixes), the general substance inventories and any other final outcome by the 27/04/07 in order to evaluate them prior to the face-to-face meeting. C. Braibant will inform the EPMF Board on the delayed submission of the proposals, rescheduled for the 04/05/07.
All the proposals submitted to the EPMF Board will be commented and/or approved by the EPMF Board on the 11/05/07. C. Braibant and R. Binney will liaise back with the concerned work groups on the suggestions and decisions of the EPMF Board.

6.4. Net meetings.

The TAP suggested to formally requesting to Eurométaux to put the necessary tools in place in order to facilitate the different meetings. The MC suggested not to request it yet, but only where and as it becomes necessary. In the meantime, R. Binney will make an informal inquiry on the eventual costs involved in the installation of such equipments.

7. CONCLUSION.

~ a member of Eurometaux ~
Avenue de Broqueville, 12 – BE-1150 Brussels
Tel. : +32 2 775 63 23 Fax : +32 2 779 05 23 e-mail : braibant@epmf.be