



# PMC General Assembly Meeting

**4 December 2018 (12:30-16:00)**

*Draft Minutes – Metals Conference Centre – 100 rue du Duc - 1150 Brussels, Belgium*

*Chair: Guy Ethier, Umicore, Belgium | Co-Chair: Heinz-Günter Schenzel, C. Hafner, Germany*

## 1. Welcome and Introduction

Guy Ethier (PMC Chair, Umicore) opened the meeting reminding confidentiality rules and competition law. The quorum has been checked and reached with 62,5% (see attendance list in annex 1).

The agenda has been reviewed and approved.

The minutes of the last meeting (June 2018, Liège) have been approved by the Assembly as the agreed actions.

The SEA fact sheets on silver and platinum have been approved by the Assembly to be used in advocacy activities.

## 2. Membership news: move to EPMF or LoA

France Capon informed PMC about the move of membership from PMC to EPMF or to a LoA system.

Overall, all the PMC companies except Cendres & Métaux moved to EPMF or a LoA. Cendres & Métaux has been formally informed on the consequences of their access to the REACH data after 2018.

## 3. 10 years achievements of PMC

Katrien Arijs presented facts and figures related to the work of PMC over the past 10 years (see annex 2 - presentation slides 10 to 22).

It was further clarified that the 2 200 references used in the registration dossiers include:

- 600 studies generated by PMC and co-owned by PMC members (available on the Knowledge Management System)
- the articles from literature (not directly available to the members due to copyrights issue)
- the studies owned by companies and shared with PMC (a list is available on the Knowledge Management System)
- Studies bought to third parties (e.g.: data from other consortia used in the refinables).

Some clarifications have been requested on the low threshold values for PGMs: an additional testing program is ongoing to check if there is different toxicity depending on the Pd compounds which could trigger a different PNEC. Based on the current results, it seems that all Pd substances have similar environmental toxicity with a consequence of low threshold value (PNEC).



The Chair asked what could have been better done. Overall, and taking into account the fact that the precious metals substances were data poor, the different decisions taken were justified to ensure that all registrations were completed by the deadline and using a reasonable amount of resources. However, for some aspects (read-across, data waivers or the use of Annex III exemption), putting more resources earlier in the process with a better planning could have helped to avoid now an important series of actions to be taken in a short period of time (e.g.: improvement of read-across in PGMs and Ag). It is important to note that there is also the impact of the end of the phase-in status in 2018 which triggers the ongoing upgrade of the Annex III exempted dossiers (an Implementing Act on the end of Phase-in status and on the updates of the dossier is under preparation by the EC and will be published early 2019).

It is worth to note also that the knowledge on processes and science increased in the past few years, this was a learning by doing exercise. Regarding the SIDs in the refinables, it was difficult to do something differently taking into account the learning curve for industry and authorities. We are now in a better situation with a stronger EM guidance available, a common understanding, and a prioritisation of the topic under MISA.

It is also important to highlight that the identified data gaps are related to Registration dossiers (maintenance, improvements etc.) but also to the next phases of REACH (Evaluation, Authorisation etc.).

In summary, a lot of progresses have been done within a short period of time and with a reasonable amount of resources taking into account the extent of the work. However, the agenda is still quite full and challenges are still ahead of the precious metals industry. EPMF will address them.

## 4. Termination of PMC agreement

### 1. Reminder of the termination obligations

France Capon reminded the article 9.3 of the Precious Metals & Rhenium consortium agreement: "Before dissolution or termination of the Consortium, all remaining joint and severable rights and obligations of the Members resulting from this Agreement, if any, shall be resolved by the Management Committee."

### 2. Assignment agreement

To ensure that all the rights and obligations of the PMC members are fully transferred to EPMF or relevant EPMF members (especially vis-à-vis third parties), the **PMC Assembly approved the assignment agreement to EPMF** (see Annex 3 of the minutes). It was reminded that it is not a merger but a transfer of the rights and duties of PMC members since PMC is contract and not a body.

### 3. 2018 Finance status (by 31/10/2018)

France Capon presented for information the status of the 2018 accounts. A few highlights:

- Refinables: the overspending is due to the increase of activities on the dossiers updates and this could be covered by the available reserves.
- Pt metal, Pd metal, Rh metal and Ir metal: the overspent is minor and is due to the literature review which is ongoing. These small differences can be covered by the available reserves.



- Ag and Ag compounds: the draft decision on EOGRTs testing proposal has not yet been issued. This means that this is unlikely that the corresponding amount will be committed this year. It will be carried over in 2019.

The rest of the budget is on track.

#### 4. Transfer of the approval of 2018 audited accounts to EPMF Assembly

Usually, the PMC Assembly recommends to the EPMF Assembly to formally approve the PMC audited accounts. Due to the termination of the Consortium agreement, **the PMC Assembly approved the immediate transfer of the duty to approve the 2018 audited accounts to the EPMF Assembly.**

#### 5. Status of the notification letters

Notification letters have been sent to 3<sup>rd</sup> parties (mainly LoA buyers) to inform them about the transfer of rights and duties from PMC members to EPMF members. A reminder has been sent by registered letter to third parties who did not reply yet clarifying that no reply will mean consent. The Assignment agreement (see point 4.2.) could be used to address remaining concerns of 3<sup>rd</sup> parties.

#### 6. LoA Status

See Annex 2 – Presentation slides 30-32. During the past years the costs sharing rules (by company or LE, allocation of the administrative costs etc.) considerably evolved. To perform the exercise related to the LoA, the costs of the dossiers have been calculated on real figures which means without 2018. The total of LoA sold has been considered until June 2018. At that date, the income related to LoA is of 4.221.671€ in total. The costs of a dossier from 2007 until 2017 have also been calculated based on the updated number of co-registrants.

Based on the above, the debit and credit to LoA buyers have been identified and the following approach has been approved by the PMC Management Committee and EPMF Board:

- No cash reimbursement is recommended but credit note will be taken into account for the next updates of the dossiers
- The credit note will apply in 2019 when the updated LoA costs will be available (including the real costs of 2018)
- Re invoicing will be done but only in 2019 to cover already the updated costs of the LoA including the real costs of 2018
- At EPMF level, the total credit to LoA will be removed from the reserves available to EPMF members and booked separately for sake of transparency.  
**N.B.:** Important to understand what the real reserves are for each platform
- If a LoA buyer disagrees with this proposal, it is agreed to proceed with cash reimbursement. All LoA buyers have been informed and only one company requested an immediate reimbursement (done in November 2018).

#### 7. Financial Reserves Status and transfer to EPMF

The PMC Assembly requested a new methodology to calculate the minimum amount reserves needed in the future.

So far, the minimum amount of reserves needed was calculated, taking into account:



- Minimum admin reserves needed in case of termination of the federation: the calculation is based on legal obligations under Belgian law
- By platform, a percentage of 5% (for the minor projects) and 7% (for the major projects) of the total costs of this platform
- By platform, an estimation of immediate regulatory threats

**The PMC Assembly approved the following new ways of fixing minimum reserves needed:**

- Based on the **legally binding reserves** (ongoing contracts including employees and LoA dues)
- Based on the **regulatory threats** and related activities needed (e.g.: additional testing, advocacy needs etc.) with a risk assessment approach when deciding to use the reserves or not.
- Based on a **fixed amount of 25.000€** for the substances where no regulatory threats have been identified to be able to address unforeseen regulatory pressure in a short term. This amount has been chosen based on the experience with the manual completeness.

Based on these rules, an overview of the available reserves for determining the uses of these reserves has been presented (see Annex 4 to these minutes).

**Post meeting note:** footnotes of the overview of the reserves 2018-2019 (annex 4) have been corrected (AR, December 2018)

Regarding the allocation of the reserves to EPMF members in the future, **the PMC Assembly approved the following recommendation of the PMC Management Committee.** For the PMC membership (becoming EPMF members), taking into account the numerous changes in the product portfolios of each company, and for sake of **efficiency avoiding unnecessary administrative burden**, the PMC Management Committee and EPMF Board suggest to proceed as follows:

- **If a member contributed to a platform and continues to have an interest in this platform:** when the reserves are used, this member will receive a fee statement (calculation being based on the cost sharing formula of EPMF) to inform him about his contribution to the yearly workplan
- **If a member contributed to a platform but do not have an interest anymore into this platform:**
  - If he demonstrates later an interest again in this platform, its contribution to the platform and to the reserves will be taken into account when he will join it again.

For example: a company X is a member of platform Ag until 2018 (included). They leave the platform in 2019 until 2022 and want to come back in 2023. From 2019 to 2021 reserves have been used but in 2022, budget has been invoiced. The company X will have to pay in 2023 the 2022-2023 fees (based on the EPMF cost sharing formula). The member will receive a fee statement for 2019-2021 since the reserves have been used during these three years.

- If he does not demonstrate later an interest again in this platform, no reimbursement of the reserves or past fee will be done.

## 8. Survival provisions after termination of the agreement



The following provisions have been reminded and are related to the survival provisions between the PMC members (and not related to third parties like for the Assignment Agreement):

The provisions of PMC Agreement which by their nature extend beyond the expiration or termination of the Agreement and, in particular, those relating to the protection of confidentiality, Information ownership, disclosure and use, liability and settlement of disputes, as per these "Survival Provisions", shall survive the expiration or termination of the Agreement.

9. Before termination, the Assembly confirmed that all remaining joint and severable rights and obligations of the Members resulting from this Agreement, have been resolved by the Management Committee

**The PMC Assembly confirmed that all remaining joint and severable rights and obligations of the Members resulting from this Agreement, have been resolved by the Management Committee of PMC.**

**The PMC will be terminated on 31st December 2018.**

List of annexes:

1. Final attendance list
2. Slides presented at the meeting
3. Signed Assignment agreement
4. Reserves overview table