

DECISION OF THE ADMINISTRATIVE BOARD AMENDING THE RULES OF PROCEDURE OF THE ADMINISTRATIVE BOARD OF THE EUROPEAN MARITIME SAFETY AGENCY

THE ADMINISTRATIVE BOARD OF THE EUROPEAN MARITIME SAFETY AGENCY,

Having regard to the Regulation (EC) No 1406/2002 the European Parliament and of the Council of 27 June 2002, as amended, establishing a European Maritime Safety Agency, and in particular Articles 10(2)(j) and 13(4) thereof;

Having regard to the Decision of the Administrative Board of 20 November 2012 adopting Rules of Procedure of the Administrative Board of the European Maritime Safety Agency, as amended by the Decisions of 14 November 2013, 2 June 2015 and 8 November 2019;

HAS DECIDED AS FOLLOWS:

Article 1

Article 2 paragraphs 2 and 4 of the Rules of Procedure of the Administrative Board of the European Maritime Safety Agency shall be replaced as follows:

“2. The Chairperson and Deputy-Chairperson shall be elected by secret ballot paper or an equivalent electronic voting system for meetings held via video conference. The election will be held at a meeting of the Administrative Board convened by the outgoing Chairperson and/or Deputy-Chairperson, at least two months before the end of their terms of office.

...

4. A ballot paper (or electronic equivalent) listing the candidates in the alphabetical order shall be issued to all members eligible to vote.”

Article 2

Article 5 paragraph 5 of the Rules of Procedure of the Administrative Board of the European Maritime Safety Agency shall be replaced as follows:

“5. Meetings shall normally be held at the seat of the Agency. The Chairperson can, however, decide to hold one or more meetings via video conference.”

Article 3

Article 8 paragraph 3 of the Rules of Procedure of the Administrative Board of the European Maritime Safety Agency shall be as follows:

“3. Unless a secret ballot is requested by at least one-third of the members present, votes shall be taken by show of hands or an equivalent electronic voting system for meetings held via video conference.”

Article 4

Article 13 paragraph 1 and 3 of the Rules of Procedure of the Administrative Board of the European Maritime Safety Agency shall be as follows:

“1. Travel and subsistence expenses incurred by the members of the Administrative Board in connection with attending physical meetings relating to Administrative Board business shall be paid by the Agency in accordance with its rules on the reimbursement of high level experts (Decision of the Executive Director No 2018/036 of 23 November 2018).

...

3. Travel and subsistence expenses incurred by observers and experts invited by the Administrative Board in connection with attending physical meetings related to the Administrative Board business shall be paid by the Agency in accordance with its rules on the reimbursements of experts or high level experts. The Administrative Board shall decide when deciding to invite the person in question whether the person shall be considered participating (expert reimbursement) or contributing (high level expert reimbursement) to Administrative Board business.”

Article 5

This Decision enters into force on the date of its signature.

Done at Lisbon on 11 November 2020,



Andreas Nordseth
Chairman of the Administrative Board

Annex: Rules of Procedure of the Administrative Board of the European Maritime Safety Agency, consolidated version.

RULES OF PROCEDURE OF THE ADMINISTRATIVE BOARD OF THE EUROPEAN MARITIME SAFETY AGENCY¹

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¹ Recast by the Decision of the Administrative Board of 20 November 2012, as amended by Decisions of 14 November 2013, 2 June 2015, 8 November 2019 and November 2020 (consolidated version).

RULES OF PROCEDURE OF THE ADMINISTRATIVE BOARD OF THE EUROPEAN MARITIME SAFETY AGENCY

Article 1 - Membership

1. The duration of the term of office for each member, as set by article 11.3 of the Regulation, shall be 4 years. The term of office is renewable.
2. Each member shall have an alternate member nominated by the Member State or the European Commission, as appropriate.
3. The four professionals nominated by the Commission to the Administrative Board will not have alternates. In case of absence the provision of article 3.2 applies.

Article 2 - Chairmanship

1. In accordance with Article 12 of the Regulation, the Administrative Board shall elect a Chairperson and a Deputy-Chairperson from amongst its members. The terms of office of the Chairperson and Deputy-Chairperson shall be three years and shall expire when they cease to be members of the Administrative Board. Their terms of office shall be renewable once.
2. The Chairperson and Deputy-Chairperson shall be elected by secret ballot paper or an equivalent electronic voting system for meetings held via video conference. The election will be held at a meeting of the Administrative Board convened by the outgoing Chairperson and/or Deputy-Chairperson, at least two months before the end of their terms of office.
3. The members who wish to put forward their candidature shall address motivation letters to the Executive Director, who shall circulate them to the Administrative Board before the relevant meeting for the election.
4. A ballot paper (or electronic equivalent) listing the candidates in the alphabetical order shall be issued to all members eligible to vote.
5. Each member eligible to vote shall cast one vote. The votes shall be counted by two members appointed as tellers by the Administrative Board.
6. The Chairperson shall be elected by a two-thirds majority of all members entitled to vote. The second most successful candidate shall be elected Deputy Chairperson.
7. If the first ballot does not result in a two-thirds majority for any candidate, a second ballot shall be held. Only the two leading candidates in terms of votes cast in the first ballot shall be entitled to stand for election in the second ballot. (In the event that equal numbers of votes are cast for two or more *leading* candidates, those candidates shall enter the second ballot. If an equal number of votes are cast in the first ballot for more than one candidate lying in *second place*, those candidates shall all enter the second ballot, in addition to the leading candidate.)
8. If the second ballot does not result in a two-thirds majority for any candidate, but one of the candidates has maintained a consistent lead in votes cast in both ballots, the Chairperson, having consulted the candidates for Chairperson, may invite the Administrative Board to agree to elect the leading candidate as Chairperson by consensus.
9. In the event that the Administrative Board is unable to agree on the election of a Chairperson and Deputy-Chairperson at the meeting convened for that purpose, an additional, extraordinary meeting of the Administrative Board may be convened for the purpose of concluding the election process.
10. In the event that the election process has not been concluded before the expiry of the terms of the existing Chairperson and Deputy-Chairperson, the previous Chairperson or Deputy-Chairperson shall Chair the ensuing meeting(s) of the Administrative Board, until such time as their successor is

elected. However, if they are candidates for re-election, the ensuing meeting(s) of the Administrative Board shall be Chaired by its longest-serving member, or the older of the longest-serving members in the event of equal length of service. Pending the election of the new Chairperson and Deputy-Chairperson, this member shall carry out the responsibilities of the Chairperson of the Administrative Board.

11. If the office of the Chairperson or Deputy-Chairperson falls vacant during their elected term of office, the Chairperson or Deputy-Chairperson, as the case may be, shall convene an Administrative Board meeting to elect a successor, to be held within three months of the office falling vacant. The succeeding Chairperson or Deputy-Chairperson thus elected shall hold office for the remainder of his/her predecessor's term of office, subject to remaining a member of the Administrative Board.
12. The terms of office of the Chairperson and Deputy Chairperson shall commence on the first day following the end of their predecessor's term of office.
13. The Deputy-Chairperson shall automatically take the place of the Chairperson, if the Chairperson is unable to attend to his/her duties. If both the Chairperson and Deputy-Chairperson are absent or unable to attend a meeting of the Administrative Board, the meeting shall be Chaired by the longest-serving member of the Administrative Board, or the older of the longest-serving members, in the event of equal length of service.

Article 3 - Attendance at meetings

1. The Administrative Board members shall attend all meetings of the Administrative Board. Where this is not possible, their alternate should attend in their stead. Both Administrative Board members and alternates can participate in the meetings. They may be assisted by one adviser, unless the Board decides otherwise in a particular case.
2. Any Administrative Board member can also represent one other member, provided that a written authorisation from the absent member is provided to the Chairperson.
3. Unless the Board decides otherwise in a particular case, the Executive Director shall also take part in the Administrative Board's deliberations and may be assisted by other staff of the Agency.
4. In line with article 13.4 of the Regulation, where there is a matter of confidentiality or conflict of interest, the Administrative Board may decide to examine specific items of its agenda without the presence of the members concerned.
5. A request for application of the provision of paragraph 4 shall be addressed to the Chairperson of the Administrative Board at least 3 working days before the meeting in question takes place and will have to be justified. Any Administrative Board member is entitled to introduce such request. The Chairperson will present such request and the associated justification at the opening of the meeting and the Administrative Board will decide with a two third majority.
6. In case of absence the members and alternates shall inform the Secretariat thereof.

Article 4 - Admission of observers/Representatives of third countries

1. In line with article 13.5 of the Regulation, the Board may invite any person whose opinion can be of interest to attend its meetings or part of its meetings as an observer.
2. Representatives of third countries having entered into agreements with the European Community in accordance with article 17 of the Regulation shall be entitled to attend Board's meetings under the terms and conditions specified in such agreements.
3. The Administrative Board may invite any State which has applied for membership of the European Union, on condition that the accession negotiations have been successfully completed, to attend its meetings or part of its meetings as observer.
4. Representatives of third countries not covered by paragraphs 2 or 3 may be invited to attend Board meetings as observers in case an agenda item is of particular interest to these countries.

Article 5 - Convening of meetings

1. The Administrative Board shall hold an ordinary meeting three times a year. Additional meetings may be organised on the initiative of the Chairperson, or at the request of the Commission or of one-third of the Member States. The date of the meetings shall be decided by the Administrative Board at least at its preceding meetings.
2. An agenda, accompanied by the relevant material for decision making, will be forwarded to the members at least two weeks prior to each ordinary meeting.
3. When the Administrative Board is to meet at the instigation of the Chairperson or at the request of the Commission or of one-third of the Member States, the Chairperson shall convene a meeting to take place within six weeks of receipt of the request, or as soon as practicable in urgent cases.
4. When the Administrative Board is convened to deliberate on a matter of urgency, the notice of convocation, the provisional agenda and eventual working documents shall be transmitted by the Chairperson to members no later than the tenth day before the start of the meeting, except in cases of 'force majeure'.
5. Meetings shall normally be held at the seat of the Agency. The Chairperson can, however, decide to hold one or more meetings via video conference.
6. When circumstances require and provided a majority of the members does not object, the Chairperson may change the date or place of a meeting of the Administrative Board. Notification of such change shall be given to members no later than three weeks before the original or revised date of the start of the meeting, whichever is the earlier.

Article 6 - Agenda

1. A provisional agenda shall be drawn up by the Chairperson. It shall contain, in addition to those items whose inclusion is requested by a member, any item whose inclusion is requested by the Executive Director.
2. Notwithstanding paragraph 3, items to be included on the provisional agenda shall be submitted to the Chairperson not less than six weeks before the date of the start of the meeting, except in cases of "force majeure".
3. The agenda shall be adopted at the beginning of each meeting.
4. With the agreement of the Administrative Board, urgent items may be added to the agenda at any time prior to the end of the meeting, and items on the agenda may be deleted or carried over to a subsequent meeting.

Article 7 - Quorum

The members, alternate members or proxy holders of at least two third of the members with a right to vote shall constitute the quorum necessary for the meeting to be valid. In the absence of a quorum, the Chairperson shall close the meeting and convene another as soon as possible.

Article 8 - Voting

1. The Administrative Board shall take its decisions by a two-thirds majority in accordance with article 14 of the Regulation. Each member shall have one vote. The four professionals from the sectors more concerned, nominated Administrative Board members by the Commission shall have no vote. The Executive Director of the Agency shall have no vote.
2. In the absence of a member, his/her alternate or nominated proxy according to Article 3.2 shall be entitled to exercise his/her right to vote. In addition to his/her own vote, each voting member may receive only one vote by proxy. The proxy shall be notified to the Chairman at the beginning of the meeting.

3. Unless a secret ballot is requested by at least one-third of the members present, votes shall be taken by show of hands or an equivalent electronic voting system for meetings held via video conference.
4. For each decision adopted by the Administrative Board, figures for the votes cast shall be recorded. A statement of the views of the minority may be entered in the minutes along with the decision, if the minority so requests.
5. The Chairperson may authorise a member to speak briefly in explanation of a vote he or she has cast.

Article 9 - Written procedure

1. Without prejudice to Articles 7 and 8, decisions of the Administrative Board may be taken by written procedure, on a proposal from the Chairperson.
2. A proposal for a decision to be taken by written procedure shall not be subject to amendment; it shall be approved or rejected in its entirety.
3. The result of a written procedure will be notified without delay to the Administrative Board members.

Article 10 – Committees and working groups

1. The Administrative Board may appoint standing or ad-hoc committees or working groups to facilitate the work of the Administrative Board.
2. The Administrative Board shall specify the mandate and the composition of any such committee or working group.
3. The Administrative Board shall appoint the Chairperson of the committee or working group.
4. The members of such committees or working groups shall be entitled to the same rules for reimbursement of costs as Administrative Board members.

Article 11 - Transmission of documents; minutes of meetings

1. A summary of the decisions taken at each meeting of the Administrative Board shall be forwarded to members not later than two weeks after the end of the meeting.
2. The draft minutes, to which shall be attached the summary referred to in paragraph 1, the attendance list, and the decisions taken with figures for the votes cast at each vote, shall be forwarded to members not later than four weeks after the end of the meeting.
3. Once approved, the minutes shall be signed by the Chairperson. The signed copy of the minutes shall be kept in the archives of the Agency.
4. The final text of the minutes shall be forwarded to members not later than two weeks after its approval.

Article 12 - Commitment, conflict of interest, confidentiality

1. Members of the Administrative Board and their alternates shall, when taking up their duties, make a written declaration of commitment and confidentiality in accordance with the model contained in Annex 1 and shall provide their CVs. The initial declarations are to be renewed annually and at the beginning of each term of office.
2. Administrative Board members and their alternates appointed prior to the entry into force of the present decision shall also make a written declaration of commitment and confidentiality and provide their CVs.
3. In line with the Conflict of Interest Policy (Annex 2) the members of the Administrative Board and their alternates shall undertake to act independently in the public interest. For this purpose, at each meeting, members and their alternates shall declare any interest which could be considered to be

prejudicial to their independence with respect to any point on the agenda. The Chairperson shall decide if the member or alternate declaring such interests is allowed to participate in any vote on the relevant point.

4. Members and their alternates shall be required, even after their duties have ceased, not to disclose information of the kind covered by the duty of professional secrecy.
5. All proceedings of the Administrative Board shall be confidential. Members and others present at meetings of the Administrative Board shall respect the confidential character of these proceedings.
6. The Administrative Board's decisions and minutes of meetings shall be subject to the provisions of article 4 of the Regulation and measures taken for its implementation.

Article 13 - Reimbursement of expenses

1. Travel and subsistence expenses incurred by the members of the Administrative Board in connection with attending physical meetings relating to Administrative Board business shall be paid by the Agency in accordance with its rules on the reimbursement of high level experts (Decision of the Executive Director No 2018/036 of 23 November 2018).
2. Expenses incurred by alternate members relating to the Administrative Board business shall be paid by the Agency in accordance with paragraph 1 only in case where the alternate member replaces the Administrative Board member for whom he/she has been appointed as alternate.
3. Travel and subsistence expenses incurred by observers and experts invited by the Administrative Board in connection with attending physical meetings related to the Administrative Board business shall be paid by the Agency in accordance with its rules on the reimbursements of experts or high level experts. The Administrative Board shall decide when deciding to invite the person in question whether the person shall be considered participating (expert reimbursement) or contributing (high level expert reimbursement) to Administrative Board business.

Article 14 - Correspondence

All correspondence with the Administrative Board shall be addressed to the Agency in its Headquarters location.

Article 15 - Secretariat

The Executive Director shall provide the Secretariat and the appropriate administrative support to enable the Administrative Board to carry out its work.

Article 16 - Amendment of the rules of procedure

1. The Administrative Board may amend these Rules of Procedure by a two-thirds majority.
2. Amendments to the Rules of Procedure shall enter into force on the date decided by the Administrative Board.

EMSA ADMINISTRATIVE BOARD**DECLARATION OF COMMITMENT AND CONFIDENTIALITY FOR THE YEAR XXX**

I, the undersigned, ..., in my function as [alternate] member of the Administrative Board of the European Maritime Safety Agency (EMSA), representing,

- hereby undertake to make all reasonable efforts to fulfil my duties as [alternate] member of the Administrative Board of EMSA. In particular, I am aware of my responsibility to sign the present declaration annually and to declare at each meeting of the Administrative Board any interest which might be considered prejudicial to the treatment of items on the agenda.
- hereby declare that I am aware of my obligation to respect confidentiality, even after my duties have ceased, if the information is subject to a request for confidentiality or for reasons of professional secrecy. I shall also respect the confidential nature of the opinions expressed by other members during discussions in meetings or provided in written form.

I understand that this declaration will be entered in a register held by EMSA, which is accessible to the public.

DONE IN _____ ON _____

SIGNATURE:

EMSA Administrative Board Conflict of Interest Policy

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1. Introduction

The Commission, the Member States, representatives of EFTA countries (Norway and Iceland) and the industry are represented within the Administrative Board in order to control effectively the functions of the Agency, entrusted with the necessary powers, as stipulated in Article 10 of Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency, as amended (hereinafter referred to as 'Founding Regulation') to *inter alia* adopt the work programme of the Agency for the coming year, adopt the final budget of the Agency before the beginning of the financial year, adopt the annual report on the Agency's activities and appoint the Executive Director.

The Administrative Board recognises that the members of the Administrative Board are carefully selected by Member States and Commission, relying upon the trust in their integrity, judgment, and courage therefore the Administrative Board reasonably expects that no member would ever use his or her position for personal gain.

However, the Administrative Board recognises the sensitivity of the tasks to be performed and the need to define a concept of conflict of interest as well as the need to lay down practical arrangements and proportionate measures for avoiding or managing apparent, potential and real conflicts of interest (hereinafter referred to as 'conflict of interest').

The Administrative Board recognises the different nomination procedures and the different roles and responsibilities of the members of the Administrative Board of the European Maritime Safety Agency (hereinafter referred to as 'EMSA') compared to other EU agencies as well as of the Executive Director and other members of EMSA staff.

Therefore the 'EMSA Administrative Board Conflict of Interest Policy' is adopted specifically for the EMSA Administrative Board, recognising its role and responsibilities (hereinafter referred to as 'Policy').

2. Purpose

The purpose of this Policy is to establish the principles governing impartiality and independence of the members of EMSA's Administrative Board and their alternates and define the measures to ensure their practical application in order to prevent and mitigate the risk that past, current or future interests might improperly influence the impartiality and the independence of the Board members during the performance of their duties.

Furthermore, it defines types of conflict of interest and procedure for identifying and handling it.

It should be noted that this Policy is based on the principle that interests declared in a transparent way are not per se considered to represent conflicts of interest. So this Policy is not to ban or sanction the holding of interests by members of the Administrative Board but to facilitate in a transparent and consistent manner the handling of situations where conflicts of interest may arise.

It must be stressed that this document describes the main principles which apply and is not intended to be exhaustive but rather to provide examples of relevant interests and potential conflict of interest situations.

This Policy may need to be updated in the light of the experience gained by the Administrative Board.

3. Scope

This Policy shall apply to all members and alternate members of the Administrative Board (hereinafter referred to as the 'Board member(s)'), in the performance of their functions.

4. Conflict of interest

A conflict of interest is an apparent, potential or real conflict between the public duty and personal or vested interests of a Board member, in which the Board member has direct or indirect interests which could improperly influence the performance of their official duties and responsibilities.

Personal and vested interests may be of financial or non-financial nature and may concern a personal or family relationship or professional affiliations (including additional employment, "outside" appointments or former employments or appointments).

Interests can be direct or indirect depending on their likely or potential impact on the individual's behaviour at a given point in time. Direct interests are interests of personal benefit to the individual at the time of declaration, likely to influence or give the appearance of influencing his behaviour. Indirect interests should be considered as other interests that may have some influence over the individual's behaviour and therefore have to be neutralised.

In this context, the conflict of interest can also be actual or apparent, which can be said to exist where the impartiality and objectivity of a decision of the Administrative Board is or might in the public perception be compromised by an interest held by, or entrusted to, a Board member.

A conflict of interest can create an appearance of impropriety that can undermine confidence in the person, profession, or the organisation.

A conflict of interest may exist even if no unethical or improper act results from it. On the other hand, the holding of interests does not automatically give rise to a conflict of interest, if the independence and objectivity of decisions are not at risk.

It is recognized that it is often difficult to objectively assess whether a conflict of interest situation exists.

5. Policy statement

The Board members shall undertake to act independently in the public interest. The Board members shall not be guided by personal interest or any outside influences of whatever kind. The Board members shall make their best efforts to refrain from involving themselves in any activity that would result in a conflict of interest and abstain from handling matters which involve his or her own interest, or those of his or her family and relatives.

The primary responsibility for assessing whether an interest might impede independence or influence judgment and for declaring any possible conflict of interest is placed on the Board member concerned.

5.1. Declaration of commitment and confidentiality

Taking into account the sensitivity of the tasks to be performed by the Administrative Board of EMSA and the need to ensure that the principles of impartiality, fairness and transparency are properly applied, in the exercise of their functions, declarations of commitment and confidentiality are requested annually from each Board member. For the same purpose CVs of the Board members are also requested.

The Board members shall be subject to the requirements of confidentiality even after their duties have ceased.

For this purpose, the Board members shall complete and submit upon their appointment or for the current members, an annual declaration of commitment and confidentiality, in accordance with Annex 1 of the Rules of Procedure. In addition, the Board members shall submit upon their appointment or for the current members a CV and whenever necessary an updated version thereof.

5.2. Preventive measures

Preventive measures that deal with emergent conflict of interest situations should be identified and facilitated. It is considered to be important to develop and sustain an open organisational culture where conflict of interests or measures dealing with conflict of interest matters can be freely raised and discussed. The Board members should also accept responsibility for arranging their private affairs so as to prevent conflicts of interest. In case of suspicion of the possibility of existence of conflict of interests, Board members are obligated to undertake all necessary measures with a view to preventing private interest influence.

The Board members should be enabled to foresee potential conflicts, where feasible: for example by providing significant meeting agendas in advance; record in meeting proceedings any conflicts that arise and the measures taken to resolve them. Consistency and openness in resolving or managing conflict of interest situations should be ensured, for example by providing up-to-date information about the Administrative Board's policy, rules and administrative procedures regarding conflict of interest, or by encouraging discussion on how specific situations have been handled in the past and are expected to be handled in the future.

5.3. Declaration of interest (meeting)

At the beginning of each meeting of the Administrative Board the Chairperson should assess if anyone of the participants has any direct or indirect interests in the outcome of the deliberations in relation to any matter on the agenda of the meeting. Members of the Administrative Board are required to submit an oral declaration of interests. Thereby the Board members shall declare all direct or indirect interests in the outcome of the deliberations in relation to any matter on the agenda of the meeting that could be prejudicial to their independence. When declaring interests members should also declare current direct interest of (a) household member(s) (i.e. spouse, partner and children living at the same address as the individual).

Interests need to be declared up to 5 years after which the interest ceases to exist. However, individuals can declare any interests beyond the 5 years timeframe.

The responsibility for a complete and truthful declaration shall lie exclusively with the Board member declaring his or her interest and those held by members of his or her household. In order to maintain privacy, the names of household members do not need to be declared.

Interests declared during meetings should be fully disclosed and published in the minutes. Alternatively, it should be noted that simultaneously with the adoption of the agenda of the Board meeting it has been stated that there were no conflicts of interest in relation to any matter on the agenda of the meeting.

5.4. Assessment and evaluation of declared interests

If a Board member declares any direct or indirect interests in the outcome of the deliberations in relation to any matter on the agenda of the meeting that could be prejudicial to their independence, based on the information provided by the Board member, the Administrative Board will jointly evaluate

whether a declared interest constitutes a conflict. The final decision remains with the Chairperson of the Administrative Board.

5.5. Interests and conflict of interest of the Administrative Board

5.5.1. Interest

Interests to be declared are any activities or interests in relation to any matter on the agenda of the meeting that could be perceived as an interest in an activity falling within EMSA's remit and/or which could be perceived as compromising the ability of the individual Board member to act in an independent manner in the public interest.

Direct or indirect interests include among others financial, business or professional interests of the Board members as well as personal or family relationships.

5.5.2. Conflict of interest

In general terms, situations and relationships should be considered to be conflicts of interest if the declared interest is likely to improperly influence the performance of the Board members official duties and responsibilities as a member of EMSA's Administrative Board or if the impartiality and objectivity of a decision of the Board member is or might in the public perception be compromised by the interest held by, or entrusted to, the Board member.

For example, a conflict of interest of a financial nature may exist when individuals have a financial stake because of a secondary employment, investment in a company/institute operating in a related field or intellectual property rights whose value may be influenced in either a negative or positive sense by a decision of the Administrative Board, e.g. with regard to a planned administrative arrangement.

A conflict of interest may also arise where, during the preceding five years, assistance and support from stakeholders of the Agency were received, whether associated with direct or indirect pecuniary or material benefits. Conflict of interest can also exist in cases of interests of non-pecuniary or material benefit to the individual, during the preceding five years, arising from professional activities or affiliation with national or international organisations or bodies with tasks similar to EMSA. This also includes participation in public interest groups, professional societies, clubs or organisations which have an agenda or an interest or involvement in the Agency's work.

Situations of conflicts of interest may occur in the context of all different kinds of decisions of the Administrative Board, for example those regarding the annual work programme of the Agency or requests for assistance to the Commission, as referred to in Article 2(2)(d), or requests for technical assistance, as referred to in Article 2(3), 2(5) or Article 2a of the Founding Regulation.

5.6. Procedure

In order to evaluate whether a declared interest constitutes a conflict the Chairperson of the Administrative Board may seek additional background information with regard to the information that was declared.

The Board member concerned shall classify his or her declaration of interest according to the following indicative levels of conflict of interest:

A conflict of interest is "non-existent" if the declared interest cannot be expected to cause any conflict of interest.

A conflict of interest is "possible" if the declared interest poses a potential conflict of interest by default, for example because there might be a potential benefit to the individual arising from the respective decision of the Administrative Board. Whether a potential conflict of interest will result in a factual or perceived conflict of interest depends hereby on the nature of that particular potential

conflict, the subject at issue, the behaviour of others, etc. A conflict of interest is also “possible” if a conflict of interest cannot be excluded.

A conflict of interest is “existent” if the declared interest obviously implies a factual or perceived conflict.

Based on the information provided by the Board member concerned and taking into account the general context in which that specific activity or interest is developed, and all particularities of the specific activity or interest at issue, the indicative level of a conflict of interest in question can be either adjusted or confirmed by the Chairperson of the Administrative Board after consultation with all Board members not concerned.

If the Chairperson of the Administrative Board declares any direct or indirect interests in the outcome of the deliberations in relation to any matter on the agenda of the meeting that could be prejudicial to his or her independence, he or she shall be replaced by the Deputy Chairperson.

5.7. Resolution measures

The decision on the nature of participation of a member of the Administrative Board in a specific meeting shall be taken by the Chairperson of the Administrative Board in consultation with all Board members not concerned on the basis of the level of conflict of interest. The consultation shall take place without the presence of the Board member concerned.

If a declared interest might pose a factual or perceived conflict of interest for the Board member concerned, it is in the interest of EMSA, the Administrative Board as well as of the individual with that interest that there is no involvement in that particular decision. This non-involvement should be made explicit and noticeable from minutes, reports and opinions.

In order to resolve or manage the conflict positively the following resolution measures should be taken:

Conflict of interest is “non-existent”

Involvement in all activities is permitted.

Conflict of interest is “possible”

The Board member concerned can be present to answer questions addressed specifically to him or her but he or she cannot actively participate in the final discussion and has no right to vote.

Conflict of interest is “existent”

The Administrative Board examines specific items of its agenda concerned by the conflict in question without the presence of the Board member concerned.

5.8. Gifts, hospitality, decorations and honours

The Board members shall not accept any gift with a value of more than EUR 150 related to their performance and duties as a member of the Administrative Board of EMSA.

When in accordance with diplomatic and courtesy usage, they receive gifts worth more than this amount, they shall hand them over the Secretariat of the Administrative Board. In case of doubt as to the value of a gift, an evaluation shall be undertaken under the authority of the Chairperson of the Administrative Board, whose decision on the matter shall be final.

The Administrative Board secretariat shall keep a register of gifts with value more than EUR 150.

6. Breach of this Policy

In case of an omission of relevant interests resulting in a conflict of interest, the Administrative Board shall jointly evaluate whether it may be considered as a breach of this policy. The final decision remains with the Chairperson of the Administrative Board.

The Chairperson of the Administrative Board may seek additional background information with regard to the information that was not declared. The following discussion shall take place without the presence of the member concerned.

When a breach is confirmed, and the concerned person was involved in a decision without having declared an interest, the Board should undertake remedial actions, in particular to review or cancel that decision if seriously affected by the conflict of interest. This implies carrying out an ex post review of the person's activities and contributions to the agency's output.

In addition, the Chairperson of the Administrative Board should inform the concerned Appointing Authority.

In case of knowledge of non-consistent information of the declaration of gifts, hospitality, invitations, honours, or in case of failure to declare, in line with the rules defined in 5.8 the Chairperson of the Administrative Board, in consultation with all Administrative Board members not concerned, will inform the concerned Appointing Authority.

The respective Appointing Authority is responsible for adopting any formal decision as a consequence of a conflict of interests or breach of trust, when being informed of a situation described above.

The participant shall be kept informed.

7. Transparency

The Policy and the model declaration of commitment and confidentiality for a given year and CVs shall be published on the EMSA website as well as the list of the Board members which have signed a corresponding declaration. The annual declarations will be entered in a register held by the Agency, which is accessible to the public.

Oral declarations of interest resulting in a conflict of interest are recorded in the minutes of the relevant meeting as well as the measures taken to resolve them. At least it should be noted that all Board members confirmed that there were no conflicts of interest in relation to any matter on the agenda of the meeting.

Upon request, minority opinions should be included in the minutes and made public, thereby ensuring transparency on divergent views.

8. Review

This Policy should be regularly assessed with regard to its effectiveness, in order to adapt it to possible new risks.