

Making the railway system
work better for society.

Minutes of 41st Meeting

Management Board

Lille / 31 January 2017

The meeting opened at 10.15, Mr. Mats Andersson was in the Chair. The secretariat was provided by the European Union Agency for Railways. The Agency Management Team, Mr. Josef Doppelbauer, Executive Director and Agency staff were present.

The Chair welcomed the new representative of Latvia, Mr. Patriks Markēvičs, and the new representative of Hungary, Mr. László Mosóczi and thanked warmly the representative of Denmark, Mr. Jesper Rasmussen for his six-year valuable contribution to the work of the Management Board (Administrative Board) of the Agency.

Attendance list

MEMBERS OF THE MANAGEMENT BOARD		
EU MEMBER STATES (with voting rights, one vote per member state)		
Mr. Klaus Gstettenbauer	Austria	Proxy the Netherlands
Alt: Mr. Wolfgang Catharin		Excused
Ms. Clio Liégeois	Belgium	Present
Alt: Ms. Valérie Verzele		Excused
Mr. Veselin Vasilev	Bulgaria	Present
Alt: Ms. Giulietta Marinova-Popova		Excused
Ms. Gabriela Tsekova (advisor)		Present
Appointment pending	Croatia	Excused
Alt: Ms. Ljiljana Bosak		Excused
Ms. Chrystalla Mallouppa	Cyprus	Excused
Alt: Ms. Elpida Epaminonda		Excused
Mr. Jindřich Kušnír	Czech Republic	Excused
Alt: Mr. Luboš Knizek		Present
Mr. Jesper Rasmussen	Denmark	Present
Alt: Mr. Hans Christian Wolter		Present
Mr. Indrek Laineveer	Estonia	Present
Alt: Mr. Raigo Uukkivi		Excused
Mr. Yrjö Mäkelä	Finland	Present
Alt: Mr. Risto Saari		Excused
Ms. Anne-Emmanuelle Ouvrard	France	Present
Alt: Mr. Hubert Blanc		Excused
Mr. Wolfram Neuhöfer	Germany	Present
Alt: Mr. Michael Schmitz		Excused

Mr. Triantafyllos Papatriantafyllou	Greece	Present
Alt: Mr. Grigoris Sampatakakis		Excused
Mr. László Mosóczy	Hungary	Excused
Alt: Ms. Helga Nemeth		Present
Ms. Mary Molloy	Ireland	Excused
Alt: Ms. Caitriona Keenahan		Excused
Mr. Antonio Parente	Italy	Excused
Alt: Mr. Giorgio Morandi		Present
Mr. Patriks Markēvičs	Latvia	Present
Alt: Ms. Linda Gailite		Present
Mr. Martynas Čekanauskas	Lithuania	Excused
Alt: Ms. Giedrė Ivinskienė		Excused
Mr. André Bissen	Luxembourg	Present
Alt: Mr. Marc Östreicher		Excused
Appointment pending	Malta	Excused
Appointment pending		Excused
Mr. Hinne J.Y. Groot	Netherlands	Present
Alt: Mr. Marnix Van der Heijde		Excused
Mr. Ignacy Góra	Poland	Excused
Alt: Mr. Pawel Rolek		Present
Mr. Paulo de Andrade	Portugal	Excused
Alt: Ms. Ana Miranda		Excused
Mr. Dragos Floroiu	Romania	Present
Alt: Ms. Ana Maria Dascalu		Excused
Mr. Mikuláš Sedlák	Slovakia	Excused
Alt: Mr. Miroslav Dorčák		Excused
Mr. Boris Živec	Slovenia	Excused
Alt: Mr. Benjamin Steinbacher Pušnjak		Excused
Mr. Jorge Ballesteros Sánchez	Spain	Excused
Alt: Mr. Eduardo Santiago González		Present
Mr. Mats Andersson CHAIRPERSON	Sweden	Present
Alt: Mr. Carl Silfverswärd		Present
Mr. Jeremy Hotchkiss	United Kingdom	Present
Alt: Mr. Ian Jones		Excused
EUROPEAN ECONOMIC AREA STATES (EEA) (no voting rights)		
Mr. Øystein RAVIK	Norway	Present
Alt: Mr. Erik Ø. REIERSØL-JOHNSEN		Excused
ETFA Surveillance Authority	Observer	
Mr. Gaspar Ebrecht	ESA	Excused
EUROPEAN COMMISSION (voting rights: 2 votes in total)		
Mr. Henrik Hololei		Excused
Alt: Mr. Matthew Baldwin		Present
Ms. Agnieszka Kázmierczak		Present
Alt.: Mr. Keir Fitch		Present
Ms. Ainhoa San Martin (advisor)		Present

SECTOR REPRESENTATIVES (no voting rights)		
Mr. Libor Lochman	Railway undertakings	Present
Alt: Mr. Markus Vaerst		Present
Ms. Monika Heiming	Infrastructure managers	Present
Alt: Mr. Maurizio Gentile		Excused
Mr. Philippe Citroën	Railway industry	Present
Alt: Mr. Gilles Peterhans		Present
Appointment pending	Trade-Union	Excused
Alt: Ms. Sabine Trier	Organisations	Excused
Mr. Josef Schneider	Passengers	Excused
Alt: Mr. Maurice Losch		Excused
Mr. Ralf-Charley Schültze	Rail Freight Customers	Present
Alt: Mr. Gavin Roser		Excused

SUMMARY OF DECISIONS

The Management Board:

- 1) adopted the minutes of the 40th MB meeting held on November 29th 2016;
- 2) agreed to explore further options on the Agency's internal language arrangements;
- 3) appointed Mr. László Mosóczi, representative of Hungary, as alternate on the Executive Board
- 4) adopted the Statement of Estimates 2018;
- 5) endorsed the draft Single Programming Document (SPD) 2018 noting additionally its intention to continue the dialogue between the sponsors and the Agency with a view to enhancing the current version of the SPD 2018 without prejudice to the official opinion to be issued by the Commission
- 6) adopted an Impact Assessment Methodology for the Agency;
- 7) adopted the Communication Plan 2017;
- 8) was consulted on the draft Rules of Procedure (RoP) of the Board of Appeal (BoA) and agreed on the principle to establish the Board of Appeal (BoA) as a permanent body;
- 9) agreed to modify the name of the Commission representative as reporting officer for the appraisal of the Executive Director;
- 10) agreed to hold a workshop for MB members on NSAs and NoBos monitoring policies on March 9th 2017 in Lille
- 11) agreed to meet again on June 27th 2017

Votes: All the above-mentioned decisions were taken unanimously except for the decision on the draft statement of estimates 2018 and SPD 2018 which was adopted with 20 votes in favor and 2 abstentions by the Commission.

Voting members present or represented by proxy: 22

MINUTES

1. Adoption of the Agenda

The agenda was adopted.

2. Adoption of the minutes of the 40th Management Board (MB) meeting

The minutes of the 40th MB meeting were adopted.

3. Appointment of members of the Executive Board (EB)

The Chair reminded the MB members of the appointment of the alternate on the EB, Ms. Clio Liégeois – representative of Belgium, as a full member of the EB and explained that a seat of an alternate on the EB had fallen vacant following that appointment. He added that one more seat of an alternate on the EB had fallen vacant since a Member State representative stepped down as member of the MB.

The candidacy of the representative of Hungary, Mr. László Mosóczi, Deputy State Secretary for Transport, was the only one put forward and the Chair briefly presented his profile to the Board members.

The appointment procedure for one seat declared vacant on the EB was held on a show of hands.

The representative of Hungary, Mr. László Mosóczi, was unanimously appointed as alternate on the EB.

The Chair congratulated the newly appointed member on his election and said that he was looking forward to meeting him during the coming EB meeting in April 2017 and that an appointment procedure needed to be held again for the remaining seat declared vacant during the MB meeting in June 2017.

4. Language arrangements follow-up

The Chair recalled that it had been impossible for the Board members to reach a unanimous decision on the language arrangements during their previous meeting in November 2016.

The Executive Director gave an overview of the state of play on the matter and reported on the progress made by the Agency since the previous MB meeting in November 2016.

Following the conclusions drawn during the previous MB meeting, the issue was discussed within the EB in January 2017 and the Agency had been asked to investigate further the possibility of taking mitigation measures in order to limit the repercussions of the absence of a language regime.

It was announced that the possibility for adopting mitigating measures had been excluded due to legal constraints, the Legal Service of the Agency had been requested to explore the available options. It was explained that should the Agency decide to formally adopt any such measure in writing, even the current practice used internally would run the risk of being seriously undermined.

The Executive Director identified that the problem was mainly due to the fact that the wording used in Article 74(1) of Regulation (EU) 2016/796 was very precise stating that Regulation No. 1/1958 should apply to the Agency, whereas the previous Agency Regulation contained only a reference to the effect that the language regime of the Agency was to be decided upon by its Administrative Board (AB).

It was also noted that were it not for the new Agency Regulation to include such a clear reference, one could argue that the Agency, not being considered an EU institution, was not supposed to be, as such, bound by the legal requirements of Regulation No. 1/1958. The latter, by virtue of a judgment issued by the Court of Justice of the European Union (CJEU), should be considered as applicable to the internal relations between the Agency and its staff members, which meant that the Agency should make the necessary arrangements which would enable it to function internally in all 24 official EU languages. However, the Executive Director admitted that this was practically impossible and mentioned as an example the meetings of the Agency's Management Team.

The Board members were informed that, following the advice received from the Legal Service of the Agency, no written decision could be formally adopted, at least for the moment, by the Executive Director; otherwise the Agency could be held liable and its Executive Director personally accountable for such a decision.

The Executive Director repeated that no real progress had been made since the discussions held during the MB meeting in November 2016 and emphasised that any issues related to the Agency's language regime should be dealt with only by means of an MB decision since the possibility of formally adopting mitigation measures was not to be considered as a viable option.

He assured the Board members that the Agency would take the utmost care to mitigate the negative impact of the absence of an officially adopted language regime through informal channels but made the observation at the same time that the restrictions placed upon the Agency by virtue of the strict wording of Article 74 of the new Agency Regulation could not be overridden.

The Chair wondered whether there was any additional update to be given to the Board members following the discussions held within the EB during its meeting in January 2017.

Belgium reported that the EB had discussed the option of adopting a "minimal" [sic] language regime which would be applicable only internally. It was stated that the option of using multiple languages was also discussed following the proposal made by the Executive Director on the internal use of three languages, i.e. English, French and German, with a view to applying the same principles in the field of recruitment as well and that the EB members had agreed to further reflect on the issue and come up with a proposal prior to their following EB meeting in April 2017.

Belgium sensed that, although there was no formal way for adopting mitigation measures, the possibility of adopting a policy for internal use exclusively could still provide a viable way out.

The Commission thanked the Executive Director for all the efforts he had put into coming up with a solution on the recurrent issues related to the language arrangements and welcomed the update given on the findings of the discussions held within the EB meeting in January 2017.

The Commission went on to make a point mainly as regards the budgetary and financial aspects of the matter. More specifically, it was acknowledged that the Executive Director could quite reasonably argue that the additional burden which would be placed on the Agency in the absence of a language regime could account for at least 1% of the costs –and possibly more in the longer term– to be borne by the Agency, let alone the additional work which the MB would be called on to deliver under the 4th Railway Package (RP).

For those reasons, the Commission urged all the actors involved to make their maximum efforts within their operational constraints into finding a workable solution on the matter.

Italy raised a point on the proposal related to the internal use of three languages and asked whether the Agency intended to come up with a formal proposal during the MB meeting in June 2017.

The Chair explained that the discussions held within the EB were mainly focused on decomposing the language issues into a range of internal and external arrangements to be made and considered that, following the recent discussions held within the EB, the Agency clearly posited that it was only the MB which could make a final decision on the matter and that this decision should be unanimous, if so requested.

He believed that the main issue to be discussed at that stage was whether the Board members could come up with a proposal which would be intended for strictly internal use, i.e. by designing a language policy which would only include language provisions for the internal working arrangements for the Agency.

He also commented that the current practice followed by the Agency on the issues related to the language arrangements could be described as a “ticking bomb” in terms of costs and wondered whether, from a legal point of view, it would be possible to target the internal arrangements and reach an agreement thereupon.

The Executive Director made the observation that it was apparent from the text of the provision of Article 74 of the new Agency Regulation that any decision on any aspect related to the language regime of the Agency had to be taken by the MB –and, if so requested, by a unanimity– independently of whether the scope of such a decision was broad or simply narrowed down to the internal working arrangements of the Agency.

Italy suggested that a clear distinction should be made between the internal working arrangements and the external communication arrangements and pointed out that the latter were mainly to be dealt with in the Practical Arrangements (PAs) for Single Safety Certificates (SSCs) and Vehicle Authorisations (VAs). It was noted that no doubt could be cast on the fact that an applicant or a Member State could communicate with the Agency in a language of their own choice by virtue of Regulation No. 1/1958 and that the only open language issues were the ones related to the internal working arrangements of the Agency.

The Agency was also warned that Italy would raise serious objections if a formal proposal for the internal use of three languages, i.e. French, English and German, was put forward on the basis that Italian could form part of such a proposal as well and that such a proposal would not totally exempt the Agency from its translation obligations and would not help lower the related costs.

According to Italy, the current practice followed within MB could be put forward as an additional argument in favour of the view that English should be the sole reference working language; the adoption of a single reference working language as the only cost-effective solution for the Agency.

Finland reminded that at the start of the discussions on the issue of the language arrangements, the Commission had proposed the adoption of a step-by-step approach and that it had supported, at that point, this approach taking into account that a decision aiming to cover all the language-related aspects was a rather ambitious goal given the different views of the Board members on the matter and the potential tensions resulting from this diversity in the positions expressed thereby.

Finland confirmed that it continued to plead in favour of such a step-by-step approach although it understood that the language arrangements in the field of recruitment were the main priority and focus of the attention, that the costs related thereto played a significant role and that this should be the area for the Board members to put all their efforts into despite all the challenges that the applicable EU legal framework presented.

Finland added that the step-by-step approach could be followed on the issue of the internal language arrangements as well, whereas the room for manoeuvre was much more limited when it came to language arrangements which could bear a significant impact on customers' and applicants' rights.

Belgium pointed out that the EB had approved the proposal of the Executive Director to provide regularly to the Board members an estimate of the impact of the absence of a formally adopted language regime mainly in the field of recruitment and considered really crucial the relevant documents which would be forwarded to the Board members for that purpose.

It was announced that such a document would be forwarded to them for the coming MB meeting and that it would be crucial for them to reflect on the related issues due account being taken of the immense impact that the absence of a decision on the language regime in financial and budgetary terms.

The Board members were also reminded that the interests of the Agency should be the primary concern each time they were called on to decide upon such issues.

The Chair intervened to clarify that an early estimate of the translation costs had already been circulated to the Board members prior to that meeting and that the Agency had given them the opportunity to get an idea of the implications particularly in the field of recruitment at least for the year 2017.

Denmark wondered whether it would be possible to urge for the use of English or to establish a preferential regime for English since this "soft" [sic] solution was supposed to be in line with the current practice which had been already followed –even informally– up until that point. However, it was pointed out that such a practice should not make it impossible for the Agency to use other languages as well should it be requested to do so by a Member State or a national authority.

France agreed with the proposal made by the Chair on decomposing the language issues, expressed its full understanding and support for the Agency's concern about the reduction of its functioning costs and insisted on the necessity to strike the proper balance between the need for simplification and the requisite respect for multilingualism as an essential principle in the context of the EU.

France strongly recommended that the Board members should reflect further on a potential compromise which would allow the Agency to continue its work noting that the same practice had been followed for twelve years without any concern being raised in the meantime.

It was pointed out that the main concern should be the need to ensure respect of multilingualism and that France did not intend to accept a proposal which would promote the use of a single reference working language and the Agency was urged to continue its work along the lines of the proposal made by the Chair.

Spain expressed its strong support for the position expressed by Italy and announced that its proposal on the language arrangements had already been sent to the Agency and forwarded to the Board members and that, according to that proposal, English should always be the reference working language to be used.

Germany found that the suggestion made by Denmark on the "soft" [sic] approach seemed to provide an efficient solution but went on to make the observation that a Memorandum of Understanding (MoU) would be the best way for the Agency to move forward on the issue of language arrangements; this MoU should put the foundations upon which the language policy of the Agency would be built, clarify that the communication between the Agency and the NSAs would continue to be held in English whereas as regards the requests for SSCs the other languages could be used as well, and try to strike the right balance between the different competing interests and create an interface among the actors involved.

The Commission agreed with the point made by Italy that a distinction should be made between the language arrangements in relation to the external communications of the Agency on the one hand and its internal language regime on the other hand.

Regarding the first aspect, it was mentioned that, according to Regulation No. 1/1958, any EU citizen or authority could contact the Agency using a language of their own choice, on the condition that the latter is one of the official languages of the EU.

It was noted that it was mainly the second aspect, i.e. the internal language arrangements, which were supposed to be the main subject matter of the discussions held during that day and the Board members were reminded that the Agency, as most of the EU institutions, had been following a specific practice for many years, without any written agreement being necessary whatsoever in that regard.

The Commission added that it was also working in parallel on identifying its internal working languages on the basis of a long established practice which was apparently subject to changes over the time itself and went on to define the term “internal language regime” suggesting that it was mainly the language(s) in which the internal meetings within the Agency were held as well as the language(s) used in relation to staff-related matters such as appraisal and recruitment.

It was added that a second aspect of the “internal language regime” related to the language(s) used in administrative matters and that, according to a previous proposal put forward by the Agency and rejected by the Board members, French should be the reference language for all such matters alongside English.

The Commission clarified that the information on the budgetary impact of the absence of a language regime which the Board members had already been provided with concerned only a specific budget line and that, if other budgetary aspects, such as communication with national authorities, were to be covered as well, the amount of the related costs would be much higher; the amount of 183.000 € which had already been included in the Agency’s first estimates represented only the amount of costs related to staff recruitment.

It was further analysed that the Agency would not be in a position to recruit the additional staff already envisaged in the establishment plan 2017, that the relevant calls for applications would have to be published and that their translation to all official EU languages would be necessary before their publication in line with the views expressed by the CJEU.

The Commission emphasised that the absence of an officially adopted language policy would raise significantly the amount of the relevant translation costs and pointed out that those costs were quite easily traceable and quantifiable compared to other types of costs.

On the specific issue of the languages to be used during the interviews in the recruitment process, the Commission wondered whether it could be claimed that such interviews could not be held in a specific official EU language, since, according to the Staff Regulations, each candidate should master at least 2 official EU languages which, in the absence of a formally adopted language regime, could be any of the 24 official EU languages.

The Commission made also the observation that, even if there was agreement on the need for translation and publication of the calls for applications, including as regards the amount of budget spent for that purpose, the second step of the process would still be much dependent on whether the candidate in question would insist on using a specific official EU language in its communication with the Agency; in the absence of formally adopted language arrangements, the Agency could not refuse, for instance, to recruit a candidate who did not master English nor French or German.

The attention of the Board members was also drawn to on the extent of the responsibility which lied with the Executive Director as long as the Board members refused to take a final decision on the matter since either no additional staff could be recruited or at least 183.000 € would have to be spent in order for that additional staff to be lawfully recruited.

Given the current state of play, the Commission suggested that the safer option for the Agency would be to allocate part of its budget for translation costs; in the meantime, the Board members should focus on finding a way to support the Agency, in particular in view of the pressing need for recruitment of staff already included in the establishment plan.

The Executive Director informed the Board members that the Agency had already started publishing the relevant vacancy notices in all 24 official EU languages since the previous year and that it had been receiving applications in several official EU languages.

In reply to the comment made by France, he assured the Board members that the Agency, as EU institution, was committed to the idea of multilingualism and reminded to them that its proposal which had not been approved back in November 2016 included an additional reference pointing out that, according to the Agency's policy, its staff would include at least one native speaker for each of the 24 official EU languages.

Nevertheless, it was noted that Article 74 of the new Agency Regulation contained another restrictive clause which made mandatory for the Agency the use of the translation services of the Translation Centre for the bodies of the European Union for its functional needs and which could apply in the field of recruitment as well.

The Executive Director encouraged the Board members to come up with a practical solution which would at least give the Agency the possibility to provide a sufficient justification for its application, hold up to scrutiny if challenged before the CJEU and introduce proficiency in the use of English as an eligibility criteria for any application to be submitted for a job position within the Agency.

He also pointed to the long established internal practice according to which all the documents within the Agency were being drafted in English and he noted that, should the Agency decide to suspend the use of such practice, recourse should be made to the translation services of the Translation Centre and warned the Board members that, in such a case, the Agency would not be able to operate efficiently.

The Executive Director announced that the Agency intended to come up with a language proposal for its internal working arrangements during the EB meeting in April 2017 taking as a starting point the current practice –according to which all internal meetings were already being held in English, all the documentation within the Agency was being drafted in English– and with all due respect for multilingualism with a further view to presenting such a proposal in the form of an MB decision to be adopted during the MB meeting in June 2017.

The Chair agreed with the suggestion made by the Executive Director on advancing the discussions on the relevant issues to the level of a new proposal and, hopefully, an MB decision to be adopted in June 2017 and wished to know whether all the Board members had the same opinion as well.

He summarised that so far most of the Board members seemed to be in favour of concentrating all efforts on decomposing the language issues and agreed on shifting the focus away from the potentially external aspects of the matter by putting more emphasis on its internal facets and pointed out that more work needed to be done in order for a final agreement to be reached on the aspects which ought to be defined as “internal” in the specific context of the language arrangements.

It was concluded that the proposed approach according to which the current practice would be reflected in a written MB decision could be seen at least as a first step for moving forward the relevant discussions.

The Chair asked the Board members whether serious objections would be raised to such an approach or whether there were any additional points to be considered.

The Agency was given the green light to continue working on the basis of the approach discussed within the Board focusing mainly on the internal aspects of its language regime and taking into consideration the constructive suggestions made by Denmark on the formulation of the relevant policy with a further view to putting on the table in the coming Board meetings a brief and concise proposal.

5. Statement of estimates 2018 and draft Single Programming Document (SPD) 2018

The Chair reminded that a draft statement of estimates had already been forwarded to the Board members since the beginning of January 2017.

The Head of Finance and Procurement Sector of the Agency recalled that during the EB meeting in January 2017 the Agency had presented a proposal for the budget 2018 which envisaged 150 Temporary Agents (TAs), 48 Contract Agents (CAs), 4 Seconded National Experts (SNEs) and a total budget of 32 million €, the EFTA contribution included.

He added that, during that meeting, the Commission had requested the revision of the proposed figures; it considered that they were too high and definitely not in line with the communication COM (2013) 519 of 10.07.2013 on the programming of human and financial resources for decentralised agencies 2014-2020.

The Agency had explained that some of the actions stemming from the 4th RP, such as the One-Stop Shop (OSS) project could not be envisaged and taken into account back in 2013 when the aforementioned communication had been drafted and that the costs associated to the recruitment of the additional TAs requested by the Agency as of 2017-2018 should normally be covered by fees and charges. It had been also clarified at the same time that the Agency would start its work on safety certification and vehicle authorisation from 2019 onwards, which meant that no fees and charges intended to cover the costs related to the recruitment of the additional TAs would in fact be available before that point in time.

It was announced that the matter had been discussed internally between the Agency and the Commission, that the Agency had come up with a new proposal on the budget 2018 and that the intention was to prepare a document which would reflect all the changes made as regards the initial suggestions during the break.

It was briefly summarised that the Commission had requested the Agency to reduce the number of TAs included in the draft establishment plan from 150 to 148 in line with its above-mentioned Communication. The Agency had also been asked to include 38 CAs in total instead of 48 CAs which were envisaged in its initial proposal. However, the minimum number of 42 CAs which had already been agreed for 2017 should be maintained; otherwise, it would be impossible for the Agency to proceed to the recruitment of the 4 CAs whose recruitment had already been envisaged for 2017. It was confirmed that no changes had been made as regards the total number of SNEs and that a new EU subsidy of 28,70 million € had been envisaged.

The Head of Finance and Procurement Sector made the observation that, depending on the outcome of the discussions held within the workshops, the Agency might be requested not to undertake some actions or to re-prioritise some of them, which meant that the content of the SPD 2018 should also be re-arranged and brought into line with the updated figures of the statement of estimates 2018.

The Executive Director clarified that, in view of the formal process to be followed, the MB had to endorse during that meeting the draft SPD 2018 and the draft statement of estimates 2018 and emphasised on the need for the Agency to continue negotiating with the Commission in order to streamline its proposal which contained some figures such as the number of CAs going beyond the realistic expectations of the Commission.

He also reminded the Board members of the consultation workshop which had been held the day before that meeting and took the opportunity to thank warmly all the participants thereto noting that a clear and commonly agreed view on the issues which needed to be prioritised was established for the first time.

The Board members were also informed that, during the consultation workshop, it had been agreed that the Agency would, from that point onwards until September –and eventually November– 2017 when the MB would take its final decision on the budget, identify which activities should (not) be undertaken in 2018.

It was suggested that the Agency, should update, on the basis of the input provided by the Commission, the draft statement of estimates 2018 during the lunch break and distribute to the Board members the updated version. It was highlighted that the following key figures should be taken into account by the Board members: 148 TAs, 42 CAs, 4 SNEs and a total EU subsidy of 28,70 million € or 29,40 million € with the EFTA contribution.

The Commission agreed with the time schedule proposed by the Agency and, more specifically, with the need to have the draft statement of estimates 2018 adopted already during that meeting and admitted that it also shared the same view with the Agency that the consultation workshop which had been held the previous day helped the Board members build a common understanding on the priorities to be established.

The Commission underlined that the additional budget and CAs requested for 2017 had been granted following a compromise with DG Budget, that it had been made clear that this was exceptional and that there were conditions attached to this deal which had to be met by the Agency, confirmed its intentions to support the specific additional requests of the Agency for 2018 and urged for cooperation among the Board members which had to act in a transparent manner and follow a realistic and pragmatic approach on the matter.

The Commission acknowledged that the main concern was to ensure that the Agency would be fully operational in June 2019 but suggested that any new elements included in the budget for 2018, mainly in terms of the requested additional amount of 3,40 million € which went beyond what its aforementioned Communication envisaged, should be further discussed with emphasis on the functionally critical parts of the budget.

The Commission warned that, in view of the last-minute amendments to the budget 2018, it would abstain from voting if the final decision was to be made on the matter by the MB during that meeting not only for the purpose of allowing the Director-General of the Directorate-General for Mobility and Transport (DG MOVE) to express a reserved position on the matter but also in order to secure the functioning of the system as a whole.

The Chair thanked the Commission for sharing its views with the Board members and for supporting continuously the efforts to reach an agreement on a budget which would enable the Agency to be fully functional already in 2018.

He proposed that the document presented to the Board members be redrafted and that an updated version thereof be made available to them and reminded that the figures concerning in particular the requested reduction in the total number of TAs and CAs envisaged would be the ones already announced by the Agency.

The Netherlands wondered whether the above-mentioned figures were meant to reflect a reduction in the total number of the staff of the Agency for 2018 in comparison with that of 2017 and seriously doubted whether such a proposal should be supported as being in the interests of the Agency.

The Executive Director clarified that the figures previously discussed were lower compared to those which had been presented during the EB meeting in January 2017 and that the Agency had proposed to increase the number of TAs to 145 in total and to maintain the total number of CAs at least at the same level despite the Commission's position which required a reduction in the total number of CAs from 42 to 38 and added that a reduction below the threshold of 42 CAs would place serious restrictions on the recruitment of CAs during 2017 by the Agency.

The Chair thanked the Agency for the explanations provided on the issue, highlighted the tremendous significance of the matter in view of the transition phase which the Agency was undergoing at that point in time, admitted that the Agency was very fortunate to achieve a budgetary increase of 20% from 2016 to 2017 and that the request for a continuous budget increase following such a big leap called for a very thorough analysis and suggested caution on the final position taken by the Board members on the matter.

The Executive Director thanked the members of the Commission for their consistent and strong support of the Agency's efforts to achieve its objectives and invited the other Board members, as Member States representatives, to support also the Agency whenever a discussion was held at the national level on such issues.

He explained that, from the discussions held during the consultation workshop the previous day with some of the Board members, it was apparent that national debates on the matter were still ongoing, reminded that the national ministries of finance needed to reach also an agreement on the overall budget of the

Commission and that some Member States maintained the position that the overall contributions intended to be spent on the budget of the EU Agencies had to be reduced.

He concluded that, if the Member States sent the message that the budget of the EU Agencies should be reduced, the Commission would clearly find itself in a difficult position to give its support to the Agency and urged the Member States to make sure that the positions of their representatives were fully aligned.

The Strategy and Business Planning Officer of the Agency gave a feedback on the workshop on the SPD 2018 held the day before the Board meeting. It was reminded that the Board members had received an initial draft 1.2 of the SPD 2018 on December 21st 2016 and that a draft 2 of the SPD 2018 had already been circulated to the Board members thereafter.

It was also explained that the Agency had chosen to go into a deeper level of detail as regards the tables which had been included in the annual work programme, that the multi-annual objectives had also been restructured in order to be brought into line with the annual objectives and that, wherever possible, the budgetary and resourcing matters had been updated as well, especially regarding the annexes.

It was also pointed out that two Economic Evaluation (EcoEv) objectives had been merged as a result of the above-mentioned consultation workshop and that the updated draft statement of estimates 2018 had to be taken into account as well.

The Chair thanked the Strategy and Business Planning Officer for the feedback provided and highlighted that the workshop, held the previous day, was part of the a consultation process which could be traced back to December 2016 and continued up until the beginning of 2017.

He considered that it was a big challenge for the Agency to organise and coordinate a discussion on the content and its possible alignment with the figures included in the draft statement of estimates. He felt that the consultation workshop should be held in the future well in advance of the MB meeting which immediately followed in order for the Board members to be given sufficient time to examine and get familiar with the relevant documentation before being called to adopt a final decision on the matter.

He acknowledged that a sufficiently concrete and stable conclusions had to be drawn on the draft SPD 2018 already at that point in order for the Commission to be able to form an official opinion thereupon and assured the Board members that the draft SPD 2018 would still remain thereafter open to changes since the need to make the necessary adjustments to the text, the structure and the content of the draft SPD 2018 could arise at any point during the period preceding its final adoption by the Board.

He repeated that, during the workshop, preliminary discussions had been made on the priorities to be identified with the aim of providing some guidance both to the Agency and the Commission as to the work that needed to be done on the budgetary matters and in particular as to whether the Agency should start reflecting seriously on deprioritise some of its activities.

He underlined the strong support expressed during the consultation workshop for all the actions which were related to the preparation of the 4th RP as well as the common understanding on the need to make sure the availability of the necessary financial and human resources in order for the Agency to be able to deliver its new tasks in time. It was also highlighted that the wording of the Regulation was such that, in some cases, there was not much room for manoeuvre and adjustment to the actions to be undertaken by the Agency.

It was added that, during the discussions held within the consultation workshop, a lot of emphasis was placed on the work of the Agency in the field of strategic analysis which was intended to serve as a guidance for solid problem orientation and definition of a strategy not only in the areas in relation to which the Agency was supposed to perform its tasks but also in other topics as well.

It was concluded that the Agency was already fully aware of the future priorities on which more emphasis should be placed and that this was a useful point to be taken into consideration in future discussions between the Agency and the Commission on the budgetary matters.

The Commission thanked the Chair for providing an insight into the whole process and, in particular, for stressing the need for ongoing interaction between the different actors involved and went on to explain that a full inter-service consultation was ongoing internally within the Commission which made for it the need to abstain from voting that day on the draft budget 2018 even more imperative and to highlight that efforts should be made in order for the Board members to be given as clearer a picture as possible of the issues at stake.

The Netherlands thought that the workshop which had been held the previous day had been really successful and expressed its satisfaction with the revised version of the SPD 2018 which had taken into account most of the points made during the discussions.

The Netherlands requested also the Agency to provide more feedback not only on the state of play regarding the idea of a “peer-review” or “readiness test” which had been presented during the workshop by the representative of France and the representative of Belgium, but also the possibility of a joint work with the Rail Freight Corridors (RFCs) and the practical issues associated thereto.

The Agency was also asked to provide more information on the actions taken in the field of safety culture and the proposed study of one million €, it was suggested that this proposal should be made more dependent on the methodology to be followed and it was seriously challenged whether it was necessary to make any reference to the amount of budget involved, at least at that moment.

Moreover, the Agency was urged to provide a better explanation of the process to be followed regarding the PRM TSI system and to ensure that the Member States would be given the opportunity to get an insight into the related process before the system is put in place.

The Executive Director, in response to the concerns raised by the Netherlands, advocated that the text of the draft SPD 2018 which the Agency had proposed contained a series of Activities and, in particular, the Activities to be undertaken before the prioritisation which had been agreed upon during the consultation workshop and mentioned that the Agency would be bound by the conclusions of the discussions with the Commission.

It was added that the Agency intended, from that point onwards until November 2017, to specify more clearly and in more detail the points already mentioned by the Netherlands and by other Board members which might raise similar concerns and to come to a final agreement on the priorities identified so that the MB could adopt in November 2017 a decision which would coincide with the available budget and resources.

It was summarised that the SPD 2018 was supposed to offer, at that stage, a set of choices and that the priorities, as defined during the consultation workshop of the previous day, were to be considered as a complementary instrument to be taken into account by the MB when making its final decision on the above-mentioned list of options in November 2017.

The Chair thanked the Executive Director for the explanations that he provided in response to the concerns raised by the Netherlands and added that during the consultation workshop it had been concluded that the EB meeting in September 2017 offered a great opportunity to re-open the issue and to hold a more thorough discussion on the content of the SPD given that the Commission would already have delivered its official opinion on the version forwarded to it by that time and that the Board members would, at least, be given the possibility to hold an in-depth discussion on the matter prior to the adoption of the relevant MB decision.

The Head of Safety Unit, in response to some of the questions raised by the Netherlands, noted that, during the consultation workshop, it had been agreed that the concept of “peer-review” by other Agencies, such as EASA, should be further explored and that the Agency could not be regarded as committed to such an action without knowing whether other Agencies would also be interested in undertaking such type of work. It was pointed out that the discussions on that matter would be continued so that a final conclusion could be drawn thereon hopefully before November 2017.

On the issue of safety culture, in relation to which the Agency had proposed a range of measures, the Board members were informed that, at that stage, there was no way of setting a current safety culture as a baseline and that the Agency would still have to base its work on annual reports in order for the evolution of safety culture over the years to be sufficiently identified and were reminded of the proposal to set the baseline and to proceed to the adoption of a methodology for monitoring the progress achieved in that field. It was added that this was one of the issues of prioritisation to receive a primary attention and that, in the absence of such a prioritisation, the report which would be finally produced on the topic would be of a purely qualitative nature and could be lacking detail or clarity.

During the afternoon session, a revised version of the draft statement of estimates 2018 was distributed in printed form to all the Board members.

The Executive Director pointed out that the document was aiming at providing a brief summary of the discussions held during the morning session within the MB. It was repeated that the figures reflected exactly what had been previously announced, i.e. 148 TAs, 42 CAs and 4 SNEs which resulted in a requested EU contribution of 28,70 million € and, if EFTA contribution was to be taken also into account, 29,40 million €.

It was recalled that, when the draft statement of estimates 2017 had been prepared in January 2016, the precise timing of the entry into force of the 4th RP was not yet known to the Agency and that the assumption had been made at that time that 1st of June 2016 would be the date of the entry into force of the 4th RP. It was added that, account being taken of the definitive entry into force of the 4th RP on June 15th 2016, the Agency needed to be ready to deliver SSCs, VAs and ERTMS trackside approvals as of June 16th 2019 both in terms of human resources as well as of IT systems, i.e. the OSS.

It was pointed out, however, that, in practice, the Agency should be ready to receive any application even before the above-mentioned date, since, according to the position expressed by the Legal Service of the Commission, the transition phase could theoretically start on January 1st 2019. This meant that the whole structure of the Agency as regards staff but also IT tools should be in place and operational at the latest mid-2018 in order for the Agency to be reasonably expected to deliver its decisions during the first half of 2019.

The Executive Director repeated that the discussion on the concrete alignment of the draft SPD 2018 with the eventually negotiated budget could only seriously take place at a later stage during 2017 and that the MB would have to adopt a decision on the matter during its meeting in November 2017.

The Chair realised that, although the Board members were not given much time to consult properly the revised version of the draft statement of estimates 2018, the document clearly reflected the figures which had been already presented and discussed during the morning session regarding the relevant agenda item.

The Netherlands admitted that the current version of the draft reflected more clearly the staff-related figures and went on to ask whether it was realistic for the Agency to save 2,40 million € on operational expenditures.

It also challenged whether it was necessary to identify for each of the Agency's tasks under the 4th RP the budget needs in terms of human resources arguing that the issue of whether the figures were to be considered as proportionate was highly debatable and urged the Agency to include a reference to the total numbers of staff needed for the performance of such tasks instead.

The Executive Director reminded that the updated draft statement of estimates 2018 would be forwarded to DG Budget and stressed that the Agency intended to provide clear explanations and adequate reasoning justifying the additional requirements in terms of human and financial resources set by the new tasks to be delivered under the 4th RP on top of what had been already envisaged under the Communication of 2013.

Furthermore, he repeated that the Agency would have more time, until the MB meeting in November 2017, to adjust its priorities in a more flexible manner and mentioned the example of Safety Occurrence Reporting (SOR) which raised serious concerns as to whether it should still be considered as really crucial during the discussions held within the consultation workshop.

The Commission reiterated the view that the European Commissioner for Transport gave particular attention to the important role of the SOR and the development of a safety culture in general and that there was a widespread belief that those elements were highly worthwhile and pointed out that the fact that the Agency was allowed some leeway in setting priorities mainly in the form of budgetary flexibility did not undermine the paramount importance of the relevant issues for the Commission.

The Head of Finance and Procurement Sector replied to a previous point raised by the Netherlands on the envisaged reduction of the operational expenditures, stating that this reduction was mainly due to the fact that the Commission had granted to the Agency 2 million € already during 2017 for the purpose of developing the OSS and that this amount could not be requested again by the Agency for 2018.

The Chair informed the Board members that some of the sponsors contributions which had been made during the workshop, although approved and taken on board by the Agency, had not been yet integrated into the latest version of the SPD 2018 and assured the Board members that they would be given ample opportunity for discussion also on the basis of the opinion to be delivered by the Commission until September 2017.

Belgium said that it was looking forward to working with the Agency on refining the latest version of the draft SPD 2018 which had been made available during that meeting in order to make sure that the comments made by the Board members during the consultation workshop would be taken into account and agreed with the proposal made by the Chair on the additional reference to be made as a note to the MB decision.

The Board members were invited to adopt the draft statement of estimates 2018 and version 2.1 of the draft SPD 2018.

The draft statement of estimates 2018 and the draft SPD 2018 were adopted by the Board with 22 votes in the affirmative and 2 abstentions by the Commission. It was noted additionally that the discussions between the sponsors and the Agency would be continued with a view to improving the current version of the SPD 2018 without prejudice to the official opinion to be issued by the Commission in June 2017.

The Chair thanked all the Board members for their efforts and contributions on the matter during that day, wished that the MB would be kept regularly updated on the progress made on the discussions and announced that the relevant issues would be re-opened for debate most probably in September 2017.

The Executive Director thanked the Board members for endorsing the Agency's proposals on the budget 2018 and SPD 2018 as well as the Agency's financial team and its Strategy and Business Planning Officer for their outstanding contributions.

6. Impact Assessment (IA) Methodology for recommendations and opinions

The Head of Corporate Management and Evaluation Unit made the introductory remark that the new Agency Regulation required, in its Article 8(1) the adoption of an IA methodology by the MB and that this requirement was not a new element to be considered but rather an effort to bring the practice which had been followed for many years by the Agency into line with the methodology suggested by the Commission.

He assured the Board members that the four comments received following the EB meeting in January 2017 from Belgium, France, the Netherlands and the Commission had already been integrated in the version which had been made available to the Board members.

It was added that the mandatory nature of the IA methodology, mainly by virtue of the relevant provision of the new Agency Regulation, was not the only reason for which the Agency had been proposing the adoption of such a methodology; the IA work and, subsequently, the methodology supported by that work, could be considered as being in line with and as an important tool for achieving the Agency's Strategic Vision, namely "to contribute to the effective functioning of the SERA without frontiers, [...], while improving the competitive position of the railway sector".

It was also highlighted that the methodology put forward by the Agency was to be regarded as bearing a close correlation with the Commission guidelines on Better Regulation, that the principles formulated therein

had been almost copied into the Agency's proposal and that there was not much room for innovation in the procedure proposed by the Agency; after all, it was considered that the correct approach would be to keep the Agency's methodology as much aligned as possible with the aforementioned guidelines.

It was stated that the main objective behind the Agency's proposal was to ensure that the IAs of its recommendations and opinions would be performed on the basis of a methodology which would be in line with the above-mentioned Commission's guidelines and, as required by the new Agency Regulation, formally adopted by its MB.

The Board members were also provided with an overview of the structure of the proposed IA template and explained that the following aspects were to be considered as the main features of that structure: the problem analysis, the definition of objectives, the identification of options, the analysis of the impacts, including both qualitative and quantitative analysis, the comparison of the options on the basis of the effectiveness and efficiency criteria and the arrangements for monitoring and evaluation.

Belgium thanked the Agency for the work done and went on to report on the EB discussions on the matter:

It was summarised that a quite fruitful discussion on the proposal made by the Agency had been held during the previous EB meeting in January 2017, that further comments and remarks were made by some Board members with a view to fine-tuning the initial version of the document and that the latest version which had been sent to the Board members was the one which would be put forward for adoption by the MB.

It was also highlighted that the proposed IA methodology simply served the purpose of turning a practice which had been already in use for several years within the Agency into a more formal arrangement in order to bring more clarity to the process itself enabling the Agency to provide better outputs and the adoption of the proposed IA methodology by the MB was strongly recommended.

Denmark thanked the Agency for its good and consistent work on the matter, wished to share with the other Board members its concerns about the so-called "risk of reverse engineering" which was one of the biggest pitfalls of the IA and was not found in the realm of the methodology itself and suggested that the Agency should put in place a mechanism intended to serve as a feedback loop in those cases where the findings on the results achieved would not match the initial expectations.

The Executive Director agreed with the point raised by Denmark and recognised that this was indeed the major pitfall of an IA and, at the same time, the main motive behind the choice of the Agency to restructure its work programme by clearly distinguishing its multi-annual part which would be based on strategic objectives from its annual part which would be subsequently made dependent on the outcomes of the IA.

More specifically, it was explained that the Agency was already in the process of developing specific strategies aimed at serving as the first back-up option for the aforementioned multi-annual objectives and that the proposed IA methodology should be targeted at identifying all possible options and at examining those options from a neutral perspective so as to avoid a circular situation whereby the process deployed would simply justify for the initial assumptions.

The U.K. thanked the Agency for its thought-through proposal, welcomed the transparency and, in particular, the emphasis placed on the idea of the strong stakeholder engagement by virtue of the aforementioned principle and recommended the adoption of this idea in practice mainly in the context of the discussions on TSIs, such as Noise, as well as on important environmental considerations. It was added that this practice would help ensure that the impacts on key industry sectors, such as freight, as well as on key policy objectives, such as Shift2Rail, would be fully understood and reflected in the standards to be adopted.

The Head of Corporate Management and Evaluation Unit thanked the Board members, and especially Denmark, for their useful remarks and clarified that all the work which had already been undertaken by the Agency used to be backed up by an IA performed at a very early stage of the process and that the first issue to be further explored was related to the reasons for which this practice had been followed all those years.

However, it was pointed out that the scope of the proposed IA methodology would be broader than that already defined in the text of the new Agency Regulation and the Board members were reminded of the relevant point made during the consultation workshop regarding the question of the potentially beneficial impact of the work programme on the business. It was also noted that the proposed IA methodology would have to be revisited should the changing circumstances so require.

It was announced that the EcoEv team was currently in the process of summarising as much as possible the findings of IAs already reflected in multi-page documents so that those findings could be briefly presented to the Board members, if needed, in a more understandable and easily readable format.

Germany thanked the Agency for its presentation and went on to make a point in relation to the description of the IMS IA procedure and, in particular, the use of performance indicators. It commented that the performance indicators should be primarily used as a tool intended to measure the timely performance of the IA, seriously challenged whether those indicators could also be treated as a quality criteria, warned that this use could even lead to counterproductive results in those cases where there was a pressing need for the work that have to be delivered on time even in total disregard of the quality and urged for the use of qualitative evaluation in that field as well.

The Agency replied that its proposal had already taken into consideration that potential concern, i.e. that the performance indicators were too much focused on procedure-related aspects, timeliness, etc. and not on the quality-related ones.

It was explained that the main reason for which a single Key Performance Indicator (KPI) of a purely procedural and administrative-oriented nature should be maintained was linked to the fact that various stages at which the quality was supposed to be checked had already been inserted, as regards both the LIA and the FIA, into the proposed procedure.

It was clarified that the procedure included steps related to in-house quality check, both as regards LIA and FIA, and that scrutiny from external stakeholders such as the Commission, the Member States and the Sector, had been envisaged as well under the proposed procedure. It was also pointed out that if all the steps in the procedure were properly completed, this alone could serve as a guarantee for quality and that, consequently, it was considered unnecessary to create an overlap between the KPIs and other quality-related indicators; in other words, it was assumed that quality was 100% guaranteed given that there were several stages allowing the verification of the quality of the documents and of the input provided.

The Executive Director gave a concrete example inspired from the Agency's work on the research and innovation strategy. He stressed that he was insisting on not giving his final approval unless the quality of the deliverable was ensured to the fullest extent possible and added that, although implicitly the quality was one of the most important aspects to be considered, a high-quality result should be achieved in a timely manner as well.

The representative of Infrastructure Managers (IM) welcomed the idea of an IA fully aligned with the Commission's guidelines and noted that this IA would play a particularly important role should there not be in place individual quality management assessments for different parts of the business and suggested that only by using a brief, smart, understandable and digestible format would the Agency be able to promote better its work on the field.

The Commission agreed with the point made by IM, expressed its strong engagement in the discussions related to the IA issues and its gratitude for all the good work done by the Agency and, in particular, for taking its comments into account.

The Chair expressed also his support for all the work done by the Agency and mentioned that, although he was aware that this practice had been followed in a lot of areas covered by the Agency's work so far, he was looking forward to the further development of that practice and the use of the proposed IA methodology and the approach related thereto for the purpose of grounding the Agency's decisions on a more solid ground and promoting the Agency's work since both the cost-benefit analysis and the IA were intended to serve as

valuable guiding tools for decision-making and not as a means of providing a mere justification for the initial assumptions made.

The Agency's IA methodology, consisting of the IMS IA procedure (Annex 1) and the IA template (Annex 2), was unanimously adopted by the Board.

7. Communication and dissemination plan

The Head of Corporate Management and Evaluation Unit pointed out that the proposed Communication Plan 2017 gave an overview of the planned –during the year– major milestones of the adopted 2015 Communication Strategy and Action Plan, communication events, including the map with the planning made regarding the SERA Regional Conferences and the SERA Convention as of January 31st 2017, newsletter editions and other publications, if applicable.

The attention of the Board members was particularly drawn to the above-mentioned series of medium-sized regional conferences which the Agency intended to organise jointly with the Commission during 2017 and the main updates made to the planning as regards the initially fixed venues of some of those conferences were briefly presented to them.

More specifically, it was announced that the draft plan on the SERA Regional Conferences included five regional conferences in 2017, i.e. the Central Europe Conference which would take place in Berlin, the West Mediterranean Conference which had been moved from Palma de Mallorca to Malta, the North Sea Conference in Amsterdam, the East Mediterranean Conference which had also been moved from Athens to Budapest and the Baltic-Scandinavian Conference to be held in Stockholm and it was outlined that the big SERA Convention Conference had been scheduled to take place in Brussels.

It was highlighted that the communication team of the Agency had already started working, following the suggestions made by both the Passengers and Rail Freight Customers representatives during the previous MB meetings, on a section on the spotlight on the customer, i.e. stories which would be developed together with passengers and rail freight customers associations and would be included in its newsletter, the ultimate purpose being to give a more customer-oriented to the Agency's newsletter and create a link between the Agency's work, the final outcome and its impact on customers.

The Head of Corporate Management and Evaluation Unit urged the Board members to adopt the proposed Communication Plan 2017 and added that the latter could still be subject to changes and adjusted accordingly depending on the Agency's needs after its formal adoption by the Board.

Denmark welcomed the presentation made by the Head of Corporate Management and Evaluation Unit and expressed its appreciation for the ideas and the fundamental strategy underpinning the Agency's proposal.

Denmark also wished to be provided with more clarifications in relation to point 3.9 on the development of a "crisis communication procedure" which had been listed, under Objective 3, in the list of Objectives included in the Agency's Communication Strategy Actions and expressed its support for the initiative and the efforts put into such a proposal by the Agency.

Italy thanked the Agency for its presentation and went on to make a remark regarding the updated planning of the SERA Regional Conferences and to express its concerns on whether it would be practically feasible for the Board members to attend the West Mediterranean Conference in Malta.

The Head of Corporate Management and Evaluation Unit confirmed that travel arrangements had been taken into account in the planning process and that the venue was easily accessible.

The representative of Railway Industry (RI) thanked the Agency for providing feedback to the Board members on its Communication Plan 2017, admitted that he was really impressed by the planning made for the SERA Regional Conferences 2017 and urged the Agency to define more clearly the target audience of those conferences so that the Board members could already proceed to making the necessary arrangements as

potential conference attendees. He also expressed his readiness to support the Agency in the organisation of the ERTMS conference which had been scheduled on 15-16 November 2017.

The Executive Director outlined that, as already mentioned previously during the meeting, the series of the SERA Regional Conferences which the Agency had scheduled for 2017 should be considered as the one of the most important activities to be undertaken by the Agency during the first half of 2017 and that the aim was to include in the target audience of the SERA conferences the Board members and particularly those who would be participating in the voting procedure to be held within the RISC in June 2017.

It was also announced that, given that the RISC members in every Member State were in constant interaction with the relevant stakeholders, the members of the national associations and organisations should be included in the key audience of the SERA conferences as well and that the Agency had already been involved in discussions with representatives of several national associations with a view to incentivising participation by national stakeholders and sent out letters to various stakeholders in Member States and, in particular, to RISC members requesting for support in the preparation of those conferences.

The Head of Corporate Management and Evaluation Unit, in response to the question raised by Denmark, explained that, although he had chosen not to include the development of a “crisis communication procedure” in the document to be adopted by the MB as a Communication Plan 2017 since it was not considered as a major milestone for 2017, there were still a strong links to be drawn between that objective and preparatory work for the implementation of the 4th RP.

He also evoked the issue of “sensitive opinions” noting that the Agency would have, from time to time, to take a position and to express its views publicly, in particular from that point in time when it was expected to start performing the tasks of issuing VAs and SSCs, and emphasised the need to find a trained management spokesperson who would be able to communicate with the press on behalf of the Agency in such cases.

The Executive Director intervened to clarify that there were clear internal rules defining the person which should be firstly informed of the chain of events as well as the person which should be entitled to disseminate the official position taken by the Agency and that the Agency’s actions in such cases should be guided by the following principle: “better be ready than sorry”.

The Commission found that the proposed Communication Plan 2017 was a very good initiative and expressed its gratitude and support for the planning made in relation to the SERA Regional Conferences.

Furthermore, the Board members were urged to reflect on the possible ways in which the Agency could come out to the public with “a common voice” and it was suggested that information materials could be prepared jointly with the Agency in view of the upcoming SERA Regional Conferences.

The Head of Corporate Management and Evaluation Unit took the opportunity to thank the Commission representatives for their cooperation and for a fruitful exchange of ideas with the Agency and announced that the communication team of DG MOVE had also been involved in the Agency’s work on that field.

The proposed Communication Plan 2017 was adopted unanimously by the Board.

8. Board of Appeal (BoA) Rules of Procedure draft for consultation –and agreement on BoA as permanent body or mechanism to be established on a case-by-case basis

The Agency recalled that a first draft of the Rules of Procedure (RoP) of the BoA had been presented to the Board members during their meeting in November 2016 and since then, a significant number of comments were received from the Board members.

It was also noted that the Agency had given a reply for each of those remarks by providing either a positive answer, which meant that the relevant comment would be taken into account while drafting the revised version of the RoP, or additional explanations on the initial remarks specifying that, if needed, the relevant point would also be taken into account. The Board members were also informed that a revised version of the

draft RoP had already been prepared on the basis of the comments received by the Board members and made available on the Extranet as well.

It was added that the new Agency Regulation gave the MB the opportunity to decide on the establishment of a BoA either as a permanent or as an ad hoc body and it was clarified that, although this decision would have to be adopted after the establishment of the BoA, the draft RoP already provided for a permanent BoA.

The 4th RP Preparation Programme Manager explained that the main reasons for which the BoA should be established as a permanent body were related to the need to ensure efficiency and a high level of coherence and consistency in its decision-making process in particular in view of the short time limit of three months within which the BoA would be required to deliver its decisions. It was also considered that owing to the lack of previous experience on the matter a permanent BoA seemed prima facie an easier mechanism to be established by the Agency.

It was highlighted that, on the contrary, the ad hoc nature of the BoA would enable the Agency to adjust its composition to the specific type of the appeal lodged by selecting from the list of experts provided by the Commission the most appropriate ones to decide thereupon. However, the Agency's proposal for the establishment of a permanent BoA also envisaged the possibility for the members of the permanent BoA to call experts with a specific expertise to deal with a precise question which could come up during the process.

The Board members were given an overview of the most important issues raised by the comments made on the draft RoP and replies of the Agency thereto.

It was stated that the Group of Representative Bodies (GRB) had seriously challenged whether the Executive Director of the Agency was legally bound by the decisions taken by the BoA and that the Agency considered that a combined reading of the provisions of Articles 54 and 62 of the new Agency Regulation clearly confirmed the view that it was incumbent on the Executive Director to make the final decision even if the latter was still supposed to take the findings of the BoA into account. It was added that the relevant issues had also triggered a debate within the EB and that it was apparent from the discussions held during its previous meeting in January 2017 that there should be good reasons for any deviation of the Executive Director's decision from the findings of the BoA to be considered as fully justified.

The 4th RP Preparation Programme Manager mentioned that, on the issue of the fees payable for the appeal, it had been suggested that it should not always be for the appellant to pay for those fees but rather that the BoA should decide on a case-by-case basis which party should bear the related costs and that the Agency considered that Article 80 of the new Agency Regulation made it clear that any fees and charges could be levied for the processing of appeals by the BoA as well. It was further analysed that the Agency was promoting the idea that it should be for the Executive Director to make a decision on the fees and charges taking into account the relevant proposal of the BoA which could be included in its findings.

On the third remark made, which concerned the time limits for the submission of procedural documents and had not been addressed in the revised version of the draft RoP, it was stated that, according to the comments received, these time limits were assessed as short. It was explained that, mainly in view of the three-month time limit within which the BoA needed to issue its findings, the intention was to introduce in the appeal proceedings as short time limits as possible, at least in the current version of the draft RoP, taking also into account that the BoA members should be given sufficient time for doing the required technical assessment.

Moreover, it had been suggested that the seat(s) of the BoA should be different from the seats of the Agency in Lille and in Valenciennes. It was pointed out, however, that the Agency would not take on board the such suggestions based on the premise that the BoA was intended to be an integral part of the Agency's administrative structure and should hold its sittings in one of the two seats of the Agency unless there was a justified reason for not doing so and that if the BoA decided to meet in a different location, this should be previously brought to the attention of and agreed upon by the MB.

Furthermore, it was reported that, according to one of the comments received by the Agency, the draft RoP should not include any reference to the requirements of consistency and quality of the BoA findings and that

the Agency had replied that those references played a crucial role in ensuring the coherence between the different decisions that the BoA would take and that the level of details which had already been included in the draft RoP in terms of consistency and quality was the appropriate one in order to avoid inconsistencies in the findings of the BoA especially regarding the way the procedural issues would be dealt with.

On the next steps to be taken by the Agency as regards the draft RoP of the BoA, the 4th RP Preparation Programme Manager mentioned that the Agency would have to be given the green light from the MB during that meeting in order to finalise the consultation and guaranteed that the proposed text of the RoP would be revised once more so as to ensure that all the comments received had been properly addressed.

The Board members were reminded that the revised draft RoP were intended to serve as a basis for the Agency's proposal to the Commission which would be accompanied by a report describing the status of the consultation and identifying the issues which had not been taken into account in the Agency's final proposal so that the Commission could then follow the relevant process for issuing its implementing act.

The 4th RP Preparation Programme Manager announced that the Agency was planning to present its proposal and the results of the consultation during the RISC meeting of July 2017 (RISC 79), that the Commission would prepare and make a presentation for information of its draft implementing act on the RoP of the BoA during the RISC meeting of November 2017 (RISC 80) and that the relevant draft implementing act would be formally presented in order for the RISC members to cast their formal vote upon during their meeting in early 2018 (RISC 81).

Finally, he underlined the significance of the draft RoP which could serve as a point of reference for the other proposals to be prepared by the Agency mainly in relation to the conflict of interests for the BoA members, which would be presented to the Board for adoption in September 2017 and would enable the Commission to proceed to launching the relevant selection procedure and preparing a list of candidates which would be appointed as future members of the BoA.

The Chair thanked both the Board members which contributed to the draft RoP by sending their comments and the Agency for the work done on collecting and replying to all those comments and for producing a revised version of the draft RoP and urged the Board members to share their views regarding the preliminary issue of the permanent or ad hoc nature of the BoA.

Italy seriously challenged whether the BoA should be established as a permanent body claiming that Article 55(3) of the new Agency Regulation seemed to favour an interpretation according to which the establishment of the BoA on a case-by-case basis should be the first option to be considered and went on to enumerate some of the arguments supporting that view.

First of all, it was outlined that the option of a permanent body would not accommodate the need for a simultaneous management of multiple appeals and the solution of establishing another BoA in such a case should be excluded a priori. Secondly, it was pointed out that, account being taken of the existing different types of appeals, i.e. in relation to SSCs, VAs and ERTMS projects, the members of a permanent BoA might lack the necessary expertise to deal with all the above-mentioned matters, despite the fact that the text of the new Agency Regulation clearly stipulated that they should be chosen on the basis of their particular expertise depending on the subject-matter of the appeal.

Moreover, it was recommended that, depending on whether the action in question had the form of appeal or arbitration proceedings, the composition of the BoA could be subject to changes mainly in view of the different type of actors involved, i.e. EU institutions such as the Agency or national authorities such as NSAs.

Italy also stressed that, were it not for the BoA to be established on an ad hoc basis, the possibility that its members could have the same nationality as the appellant would be higher. Although it was admitted that this point might not constitute a major concern, since the draft RoP made it clear that this could not be considered as a valid ground for the exclusion of one or more of the BoA members, it was pointed out that this aspect should be taken into consideration depending on the special circumstances of each case.

Italy raised also a concern in relation to the lack of any criteria on the basis of which the members of the BoA to be established would be selected from the list of candidates to be prepared by the Commission.

On the issue of the fees and the reimbursement of the BoA members and alternates, the Board members were reminded of Articles 106 and 107 of the draft RoP which contained specific provisions empowering the MB to adopt detailed rules determining the amount of such fees and the reimbursement of expenses of BoA members and alternates respectively. However, it was questioned whether the aforementioned provisions were in line with the provision of Article 55(5) of the new Agency Regulation which clearly delegated this task to the Commission at least as regards the amounts of fees to be paid to the BoA members.

Furthermore, Italy commented that it was quite unclear whether the costs incurred by the BoA members, i.e. fees for their involvement and work in the BoA and expenses incurred by them related to travel, accommodation and daily allowances were to be considered as fully covered by fees paid by the applicants.

The Netherlands thanked the Agency for its presentation and work on the draft RoP of the BoA and expressed its preference for the establishment of the BoA as a permanent body although it thought that the matter should be open for further discussion. It was explained that this choice would allow the Agency to guarantee the continuity of such an appeal mechanism and to ensure the consistency of its decision-making process.

The Netherlands went on to ask for more clarifications on the third point raised by the 4th RP Preparation Programme Manager regarding the time limits and the interpretation to be given to the relevant provisions of the draft RoP. More specifically, it was questioned whether the choice of the Agency to keep the prescribed time limits as short as possible had been made to the benefit of the appellants particular account being taken of the significance of the time limits used in such procedures.

France thanked the Agency for the presentation of its work on the BoA RoP and wished to draw the attention of the Board members on two points which had been already been partially mentioned by some of the Board members.

First of all, it considered that the fees payable by the appellants, if any, should not call into question the effectiveness of the appeal and, most importantly, that the equal treatment of all the applicants should be ensured. Although it admitted that this issue was closely linked to the ongoing discussion on the fees and charges, it suggested caution in dealing with those issues in the sense that the fees to be determined for lodging an appeal should not present insurmountable obstacles for those who wished to do so.

On the second point which concerned the issue of time limits, France acknowledged that, at that stage, the time limits prescribed were only indicative, but thought that there was room for extending some of the time limits already provided for in the draft RoP, in order to ensure that adequate time was given to the different stakeholders to express their views without stretching unreasonably the procedure. Despite the fact that this issue should be considered as of minor importance vis-à-vis the first point raised, it was nevertheless proposed that the Agency should find an internal mechanism in order to reconcile the competing interests.

The Chair summarised that, from the discussions held on the matter thus far within the Board, it was apparent that Italy had expressed its preference for the option of an ad hoc BoA and that the Netherlands seemed to be mostly in favour of the establishment of a permanent BoA.

IM admitted that, despite its initial preference for the establishment of an ad hoc BoA, that choice was not the best one management wise and stated that the arguments which had been previously put on the table mainly in terms of the need for consistency and efficiency led inevitably to the conclusion that only a permanent structure could help achieve those goals.

It was further pointed out that the option of an ad hoc BoA would mean that the Agency would have to start from scratch each time an appeal was lodged, something which would run contrary to the internal targets for quick and efficient decision-making and it was mentioned that, although the IM did not intend on their part to make use of such mechanism, the idea of a permanent BoA was strongly recommended.

Finland also opted for a permanent BoA with a sufficient number of alternates and warned that in the case of inadequacy in the number of alternates, the BoA would risk running out of persons who had the necessary expertise to deal with the issues brought before them. It was added that, in particular as regards the cases in which an appeal proceeding would have to be launched immediately after an arbitration proceeding, a sufficient number of alternates should be available so as to avoid a situation whereby that the same experts would get involved in both proceedings.

The U.K. expressed also its preference for the idea of a permanent body over that of an ad hoc arrangement. Sweden agreed with the solution proposed by Finland.

The Commission reminded that, as already mentioned during the presentation, the Agency would have to submit its proposal to it later in the year and that this proposal would have to be verified internally and explained that it would reserve most of its formal comments for that stage.

However, it clearly expressed its support for the solution of a permanent body not only for the reasons which had already been evoked, but also because the project of the draft RoP for the BoA had to be completed at some point and a case-by-case solution did not give such an option. It was repeated that Article 55(3) of the new Agency Regulation made it perfectly possible to allow for the participation of additional appropriate experts which would be capable to deal with a particular issue raised in the consideration of the appeal.

Moreover, the Commission was of the opinion that Article 55(3) of the new Agency Regulation provided for both choices as equally valid and alternative options and that the aforementioned provision should not be interpreted as giving precedence to one or to the other solution.

On the significant issue related to the binding nature of the appeal, which had also been discussed during the previous MB meeting in November 2016, it was noted that, during the negotiations on the text of the new Agency Regulation, both the Parliament and the Council had opted for the current version of the document, although it had been made clear that it was highly unlikely that the Executive Director would choose to ignore the findings of the decision of the BoA on the appeal unless he had good reasons to do so and that his decision could be subject to judicial scrutiny at any time if an action for its annulment was brought before the CJEU.

Italy commented that the option of establishing a permanent BoA with sufficient number of alternates which had just been put on the table by some Board members did not in fact differ in substance from the ad hoc solution it had proposed in the sense that this option offered the possibility to establish a permanent BoA but with different members to be appointed on a case-by-case basis and found that this was also an equally acceptable solution.

Germany thought that the establishment of the BoA as a permanent structure would only make sense provided that a sufficient number of alternates was envisaged in particular in view of the conflicts of interests which might arise. It was also pointed out that the rather short time limit within which the BoA would have to pronounce itself on the appeal would definitely advocate in favour of a more permanent solution.

The Executive Director thanked the Board members for their constructive contributions to the ongoing discussion on the BoA RoP and found that a broad agreement had been achieved among them as regards the essential principles to be followed for the establishment of the BoA, although he acknowledged that for many Board members flexibility mainly in terms of the time limits set was still a concern to be raised and promised that the Agency would work out a way in which the proposals in that regard and, in particular the suggestions made by France, could be taken into account for revising the current draft RoP of the BoA.

On the issue related to the permanent or ad hoc nature of the BoA to be established, he opted for the solution of a permanent structure with a sufficient number of alternates but also with a reasonable number of “core” members. It was clarified that, in order for consistency to be achieved as regards the functioning of the appeal mechanism, emphasis should be given to the establishment of a really stable “core” structure which would be well designed so as to avoid as much as possible situations where conflicts of interest might arise during appeal proceedings.

The Agency intervened to explain that the establishment of the BoA as a permanent body did not mean that there would be a single permanent structure reminding that, according to Article 55(1) of the new Agency Regulation, “the Agency shall establish one or more Boards of Appeal [...]”, if needed. This provision replied to the concerns regarding the potentially insufficient number of the members of the BoA, their heavy workload or their possible lack of expertise.

In response to the comment made by Italy on the composition of the BoA and the criteria for the appointment of its members, it was explained that such criteria existed for the selection of the BoA members through an open procedure by the Commission and that, although those criteria had not been enumerated in the text of the draft RoP, the Agency would provide, at the Commission’s request, its guidance and support in identifying the necessary profiles for the BoA members.

On the issue of the fees and the costs incurred by the BoA members, a preliminary distinction had to be made between the fees for lodging the appeal which were covered by the implementing act on fees and charges and not by the BoA RoP and the fees payable to the members of the BoA for their involvement and work in the BoA as well as the expenses incurred by them.

As regards the first type of fees, it was added that Article 80 of the new Agency Regulation did not exclude the possibility of levying fees and charges for the processing of appeals and that, should the relevant implementing act foresee appeal-related fees and charges, the draft RoP had been drafted in such a way so as to make the admissibility of the appeal conditional upon the payment of such fees and charges with due regard to the need to guarantee the rights of the appellants.

As far as the second category of fees was concerned, it was clarified that, although the BoA was meant to be established as an administrative structure within the Agency, its members would not have the same status as the Agency’s staff members and, for that reason, it was considered appropriate to include in the draft RoP a relevant provision which would provide the sufficient legal basis for the reimbursement of the BoA members for their work in the BoA and the expenses incurred by them during such type of work.

The Board members were also reminded that, as already pointed out by Italy, according to Article 55(5) of the new Agency Regulation, the relevant provisions determining the conditions for the reimbursement of expenses of the BoA members should be included in the body of the draft RoP. In addition, it was explained that the draft RoP were limited to simply defining the conditions under which the BoA members would be reimbursed for their work in the BoA and the related expenses incurred by them and that the specific amounts to be reimbursed would be subsequently decided upon by the MB and not specified in the text of the implementing act itself purely for reasons of flexibility in the decision-making procedure and that, if the Board members did not agree with such a proposal, an alternative solution would be to add an annex to the draft RoP which would describe in detail the specific amounts to be reimbursed.

The Agency agreed with Italy that the texts of the provisions of Chapter 1 “Preliminary Stage” of Title IV “Arbitration” of the draft RoP seemed to partly echo the text of some of the provisions of the new Agency Regulation and suggested that, although the intention was to make the text of the RoP easily understandable, the relevant part of the RoP could be redrafted so as to include a simple reference to the relevant Article of the new Agency Regulation.

In response to the concern raised by some of the Board members about the time limits, it was mentioned, for instance, that the five-day time limit for raising an objection to a witness being called by the other party was considered totally justifiable account being taken of the short time limit set for the interlocutory revision. It was commented that the above-mentioned deadline could be extended, if the Board members wished to have this deadline extended, and that the Agency intended in any case to establish reasonable time limits.

The Board members were informed that all those issues could be open to further reflection and it was proposed that any additional remarks and/or comments should be sent to the Agency and that any specific concerns should be dealt with on a bilateral basis.

The Chair sought the agreement of the Board members on the outcome of the consultation which had taken place so far on the draft RoP.

Belgium admitted that it was pleased with the results achieved by the Agency so far, but mentioned that it was not able, due to the large volume of the comments received, to verify whether that all the comments made had been taken on board by the Agency and questioned whether there was indeed consensus among the Board members regarding the latest version of the current draft RoP which had been sent to them.

Belgium explained that, according to certain procedures to be followed at the national level, the Sector would have to be consulted on the current draft RoP and admitted that it had not yet managed to receive feedback on the latest version of the draft RoP.

Belgium also wondered whether, in view of the fact that the draft RoP of the BoA would be put to the vote within the RISC, it was meaningful to extend the deadline for comments on the current version since an ample opportunity for debating on the relevant issues would be in any case given at that stage.

Sweden asked whether the MB would have to be consulted again in case the proposal put forward by the Agency had to be modified within the RISC.

The Chair replied that the MB would not have to be re-consulted in such a case.

Sweden suggested that, if that was the case, the current proposal, as it stood at that moment, should be put forward for formal adoption by the RISC.

The Agency urged the Board members to send to the Agency any further comments and/or remarks they might wish to make on the current draft RoP even if the same issues could be also addressed within the RISC and suggested that efforts should be put into clarifying as many open issues as possible already at that stage in order to facilitate the work of the Commission and to prevent long debates within the RISC.

Denmark supposed that the Commission would also arrange for its Expert Group to deal with the full scope of the draft BoA RoP prior to the RISC meeting and found that, if that was the case, this could serve as a sufficient guarantee that the relevant issues would be adequately dealt with.

The Commission confirmed that an Expert Group would indeed have to deal also with the relevant issues and encouraged the Board members to send any comments and remarks they might wish to make already at that stage to the Agency in order for the Commission to start working on the final proposal to be sent by the Agency.

The Chair thanked the Commission for confirming that there would be a continuous dialogue on the matter, invited the Board members to send their comments and/or remarks to the Agency as soon as possible and concluded that the Board members were so far satisfied with the outcome of the consultation and agreed to put the current draft RoP of the BoA under the scrutiny of the RISC as the next step towards its formal adoption by means of an implementing act.

9. Policy for the monitoring of National Safety Authorities (NSAs)

The Head of Safety Unit gave an update on the state of play regarding the work on the NSAs monitoring.

He reminded that the Board members, as concluded during the previous MB meeting, supported the main idea, although some of them had raised specific concerns, among others, on the absence of a clear problem statement as well as of a statement of the objective of the scheme, the absence of a clear reference for what good should look like, the complexity of the proposal and the possibility offered to go onto railway systems in Member States as part of the process not only in terms of safety but also in terms of legal authority.

It was explained that, following the MB meeting of November 2016, the Agency's proposal had been put under internal review on the basis of the feedback received from both the MB and the EB and that an internal review team had been established for the purpose of redrafting a proposal which would specifically address the concerns expressed by the Board members.

The Board members were given a short description of the matrix method. More specifically, it was explained that the matrix evaluation was done by collecting and analysing evidence-based and traceable data from various sources and that for each of the sub-elements, the audit team or the review team attributed a level from 1 to 5 based on a comparison between the data and the criteria expressed in the model and composed of a general description relevant for all sub-elements and more detailed standards for each sub-element.

The Board members were also provided with an overview of the list of the main matrix elements and sub-elements as well as with a brief summary of the maturity levels ranging from 1 to 5 to be used in the matrix evaluation process and they were urged to consult the matrix guide which was available should they wish to get a more detailed glimpse into the matter before receiving the Agency's final proposal.

The Head of Safety Unit emphasised that self-evaluation was to be considered as one of the most important aspects and as a starting point of the matrix process. He stated that this self-evaluation aimed at getting the participants familiar with the method and criteria of the tool, providing to them a better understanding of what the Agency was trying to evaluate through the questions and helping the participants to prepare the evidence needed for the on-site visit, that the process could be performed electronically and sent to the Agency before the on-site visit and that this feedback would not be used as evidence as regards the Member State since the Agency did not intend to base its assessment on the outcome of the self-evaluation.

The Board members were also reminded of the workshop on NSAs and NoBos monitoring which would be held on March 9th 2017 and aimed at providing a more detailed insight into the relevant Agency's proposals.

It was further announced that the Agency would continue with the internal review of the proposal and develop a more detailed version thereof to be presented during the EB meeting in April 2017 and, depending on the feedback received from the stakeholders following the March 2017 workshop and the comments made by the Board members thereafter, present a formal proposal for adoption by the MB in June 2017.

The Chair thanked the Head of Safety Unit for the valuable update given to the Board members following the discussions held within the EB on the matter.

Latvia wished to share with the Board members its own experience from the matrix process. It clarified that it was not against such a process and that it simply was in favour of the improvement of the current system. It was pointed out, for instance, that the guidelines were different from the questions used in the interviews.

It was also suggested that more time should be spent on discussing the relevant issues with the Agency in order for the participants to be able to show their evidence and to ask for more clarifications on the main reasons which had led the Agency to a specific conclusion on the maturity level attained by the audited NSA and that a team of the Agency should participate in those discussions on the basis of the cross-audit standards for the purpose of providing assistance and support to the audited party in reaching the expected results.

Denmark expressed its strong support for the idea reflected in the maturity models which gave the possibility to focus the discussions on some parameters to be taken as a point of reference for possible improvements, placed a lot of emphasis on the significance of using the self-evaluation as a starting point in the matrix process and stressed the added value of the self-assessment as an audit technique which would enable the Member States and the NSAs to score themselves before being evaluated by the audit team.

It was also suggested that the Agency could enter into some form of administrative arrangement with other EU Agencies, such as EASA, with a view to taking advantage to maximum extent possible of all the existing cooperation and mutual learning possibilities between the EU Agencies.

The Head of Safety Unit thanked Latvia for its useful comments and guaranteed that, where possible, the scheme would be improved and refined. He pointed out that the team had already an idea of how the scheme worked when it had been applied in the past, confirmed that there would be several staff members –and not just one or two– which would undertake the monitoring as a team and recognised the need to encourage participation of experts from the NSAs in the team performing the assessment along the lines of the practice followed by the cross-audit teams.

The Head of Safety Unit thanked also Denmark for its support, agreed with the point raised that the self-evaluation was an important part of the preparation for the formal assessment and welcomed the idea of cooperating with other EU Agencies once the scheme would be formally approved.

The Chair reminded that this issue had already been discussed within the EB and admitted that the Agency's proposal for a workshop to be held on NSAs and NoBos monitoring in March 2017 was really appreciated.

The Head of Safety Unit informed the Board members that the workshop would take place in Lille on 9th March 2017 and start at 10:00 a.m. and invited the Board members to send confirmations of their attendance.

The Commission thanked the Agency for finding the way forward on its proposal and for the progress made in that regard and expressed the view that the NSAs monitoring was a crucial aspect of the 4th RP.

Sweden expressed its support of the new approach proposed by the Agency and admitted that the experience gained from use of the matrix evaluation process was rather positive.

The Chair informed the Board members that a final decision on the NSAs monitoring policy would most probably be taken during the MB meeting in June 2017.

Germany mentioned that there was a draft agenda on the basis of which the NSAs had been already requested to send their comments and wondered whether the Agency intended to share with the Board members an updated version of the draft proposal prior the MB workshop to be held on March 9th 2017.

The Head of Safety Unit replied to Germany that the nature of the Agency's work on the matter was two-fold. It was explained that one aspect of that work related to the engagement of the Agency with the NSAs through the NSA Cross-Audit Committee which had been established for the NSA cross-audits, was chaired by NSAs and had been involved in discussions with the Agency on the possible formats that a future NSAs monitoring could take as well as on the lessons to be learnt from the cross-audit experience. Regarding the second aspect of the Agency's work, it was clarified that the planned workshop should be considered as targeting mainly the Board members and was not meant to be meeting for the NSAs with which the Agency would in any case be involved in parallel discussions.

10. Policy on the monitoring of Notified Conformity Assessment Bodies (NoBos)

The Board members were given an update on the progress made on the policy on monitoring Notified Conformity Assessment Bodies by the Agency following the discussions during the previous MB meeting in November 2016.

It was explained briefly that version 0.4 of the policy on the monitoring of NoBos had been presented during the EB and MB meetings in November 2016, that Italy and the Netherlands had sent their comments on that version and that the Agency had replied to those comments and made sure to have them integrated in the body of a newer version, namely version 0.5 which had been presented during the Task Force meeting in December 2016.

The Board members were informed that version 0.6 of the policy which would be presented to them during that meeting had been made available already since December 9th 2016, that the Board members had been invited to submit their comments with emphasis on the provisions related to audits on January 25th 2017 and that they would additionally receive some feedback on the comments made on version 0.6.

First of all, the Board members were reminded that Article 34 of the new Agency Regulation clearly provided for the development of a monitoring system for NoBos by the Agency which was supposed to support the Commission in monitoring the NoBos through the provision of assistance to accreditation bodies and to the relevant national authorities and through audits and inspections.

On the debated issue of the outsourced inspection activities, it was commented that the outsourcing was limited only to "type A" inspection bodies. It was pointed out that, during the discussions held within the

Task Force in December 2016, a clear distinction was made between inspection activities for certification and the so-called “industrial” inspection activities which were clearly outside the scope of TSIs and agreement was reached on a final position to be adopted on the relevant issues.

The Board members were also informed that the Agency had received comments from Belgium, Ireland, Italy and Sweden and that feedback would be provided on those comments in the coming days and during the dissemination workshop which had been scheduled to take place in March 2017.

The Board members were provided with an overview of the planning made by the Agency. It was announced that the Agency would present during the MB workshop on NSAs and NoBos monitoring a new version of its proposal updated on the basis of the discussions held during that day within the MB and any comments or remarks received by the Board members thereafter.

It was also highlighted that the Agency intended to submit its final proposal for adoption by the Board during its meeting in June 2017 but only as regards the specific parts thereof which were related to audits and were not to be considered as of a purely technical nature, that it would start performing officially its monitoring scheme around January 2018 and that a first revision of this scheme was expected to be done in January 2019.

The Chair thanked the Agency for providing an overview of the state of play regarding the issues related to the NoBos monitoring scheme and admitted that he was looking forward to holding a more detailed discussion on the matter during the MB workshop in March 2017.

The U.K. thanked the Agency for the presentation, welcomed the idea of the assistance provided to the Member States but wished to be given more clarifications on the Agency’s proposals on assessments, audits and inspections of NoBos. More specifically, the Agency was urged to confirm whether, according to the relevant policy, all NoBos were to be included in the scope of the scheme for assessments and inspections but possibly not for audits regardless of the notification procedure and whether the Agency intended to undertake tasks already entrusted to national accreditation bodies –such as UKAS in the U.K. – by carrying out direct assessments and inspections of NoBos. The U.K. went on to express the concern that, if the latter was the case, the risk of wasting efforts and of potentially undermining the role of the national accreditation bodies was extremely high.

Moreover, the U.K. requested the Agency to elaborate more on its proposals for cooperation which, although explicitly provided for in the text of Article 34 of the new Agency Regulation, had not been enunciated in the body of the relevant report itself.

France made a comment regarding the proposal of the Agency to limit the outsourced inspection activities so as to cover only “type A” inspection bodies. The Board members were reminded that the practice up until that moment was to include in the scope of outsourced inspection activities also “type B” and “type C” inspection bodies. France raised the concern that such a limitation could bear a significant financial impact on the Sector and invited the Agency to take that into account and to make an analysis of the financial implications that this limitation could create.

The Netherlands thanked the Agency for its efforts and urged the Agency to shed more light on its position by making a clear distinction between its powers and the tasks of other bodies –such as accreditation bodies– as regards the monitoring scheme so that situations whereby double work would have to be done could be avoided as much as possible.

RI recalled that, as already expressed during a previous MB meeting, it was necessary to safeguard the role of NoBos but also of the Sector industries which were in charge of performing some of the inspections and informed the Board members that a meeting had been scheduled between the Commission, the Agency and NB Rail in order for such sensitive issues to be discussed in further detail.

The Commission thanked the Agency for its work on the NoBos monitoring policy and, in particular, on the assessment scheme and invited the Agency to make a presentation, if possible, during the MB meeting in

June 2017, covering the overall framework of the monitoring system to be adopted by the MB and not only the aspects of that scheme which were related to audits.

The Chair agreed with the point made by the Commission and shared with the Board members his doubts on the exact scope of the monitoring scheme noting that the new Agency Regulation provided for the adoption by the MB only of the parts of the policy which were related to the audits of the non-accredited bodies and emphasised also the need for the MB to be given an overview of the whole framework of the Agency's monitoring scheme, despite the fact that the exact role of the MB in that respect remained an open point to be further clarified.

The Commission proposed that the mere fact that the MB was legally required to treat differently the various aspects of the Agency's proposal did not prevent the Board members from adopting a holistic approach and by requesting explicitly to be provided with an all-inclusive overview of the NoBos monitoring scheme.

The Chair admitted that he was a bit reluctant to give the green light for the endorsement by the MB of decisions which were potentially outside or went beyond the scope of its powers as defined in the text of the new Agency Regulation.

The Executive Director placed a lot of emphasis on the importance of NoBos in the entire process flow leading up in particular to VA as well as of a proper quality assurance of those NoBos.

In response to the remarks made by RI and by France, he explained that it was clearly understood that in some Member States the current practice was not fully in line with the Agency's proposal and that, despite the need for the performance of IAs on every Agency's proposal, the legal basis should be respected; in the case of NoBos, the general EU product rules provided a sufficient legal basis and this was clearly reflected in the Commission's relevant blue guide which plainly opted for a third-party assessment.

He pointed out that it had been repeatedly explained that the Agency could not be involved in a system which would render the third-party assessment a mere formality and would end up outsourcing the key activities back to the first party and seriously challenged whether such a situation could be considered as being in line with the above-mentioned EU legal framework.

He further acknowledged that, at the same, due account should be taken of the difficulties that the Member States were facing in switching immediately from a practice which had been followed up until a point in time to a new one and suggested that a transition phase which would allow all actors involved to reach the same targets within a reasonable time frame should be considered as the best possible option.

The Agency, in response to the concerns raised by some Board members on the risk of a potential overlapping between the activities undertaken by the Agency and the activities managed at the national level, explained that in the case of the accredited NoBos, special focus would be given only to the technical aspects which was meant to cover in practice the competence of the staff working for NoBos and the review of the certificates issued and of the internal records of the NoBos. It was added that, on the contrary, in the case of audits, which mainly targeted recognised NoBos, additional emphasis would be placed on their quality management system of the NoBos, something which meant that the scope of audits was broader than that of audits.

Moreover, it was noted that in the case of accreditation, a collaborative regime would be established between the Agency and an accreditation service and that the on-site visits would be performed jointly with that service, whereas in the case of recognition the Agency was required to cooperate with the relevant national authorities.

It was concluded that there was no overlapping between the tasks of the Agency and the tasks performed at national level but rather an obligation for cooperation and concentration of efforts on particular aspects.

The Chair thanked the Agency for the work done and found that the MB workshop to be held in March 2017 provided a great opportunity for the Board members to be engaged in an in-depth discussion on the content of both proposals of the Agency related to the NSAs and NoBos monitoring.

Belgium wished to know at which point the Agency intended to make available to the Board members the new version of its proposal updated on the basis of the comments that had already been sent to it and expressed its concern whether that latest version would be forwarded to the Board members well in advance of the planned MB workshop.

The Agency replied that, according to the practice, the relevant documentation would have to be provided two weeks prior to the scheduled event, and that most probably the Board members would receive by end of February the latest version of the proposal, including some feedback on the comments received and the Agency's replies to those comments.

11. Technical and functional specifications of One-Stop Shop (OSS)

The 4th RP Preparation Programme Manager gave to the Board members an overview of all the decisions that the MB would be called on to adopt for the implementation of the 4th RP during the years 2016-2018.

The Board members were reminded that, according to the detailed programme planning prepared by the Agency, the adoption of the technical and functional specifications of the OSS had been scheduled for September 2017 and that the Agency had proposed, during the MB meeting in November 2016, a specific approach to be followed for the adoption of those specifications.

It was announced that the Agency's proposal would be presented to the MB by end of April 2017, that the Board members would be invited to send their comments and remarks until the end of May 2017 and that the review of any comments –and replies to those comments by the Agency– would be discussed in detail during the MB meeting in June 2017 so that the final draft specifications could be sent to the Board members by the end of August and that their adoption could be completed in September 2017.

It was also explained that, as already mentioned during the previous MB meeting, it was crucial for the Agency to be given some feedback, at that point, on the type of information which the MB would consider necessary in order to be able to adopt the OSS specifications in line with Article 12 of the new Agency Regulation and it was pointed out that when it came to the description of the functionalities of the tool there were several levels of detail in the description of the relevant information to choose from.

The Board members were invited to share with the Agency any different views they might have on the matter in order for a common agreement to be reached and for the adoption of the specifications to be completed in September 2017.

Furthermore, the 4th RP Preparation Programme Manager outlined that the relevant legal texts and the Practical Arrangements (PAs) had served as a starting point for developing the OSS specifications and that since some months all VA, SSC and ERTMS – related workshops included an agenda point dedicated to OSS in order for the Agency to be given the opportunity to discuss with experts from NSAs and Sector Representatives Bodies the way in which business requirements and IT solutions would be derived from the above-mentioned PAs. It was added that three OSS specific workshops had already taken place up until that point and that on top of the discussions held on the specifications, the Agency was putting a lot of effort into developing the IT-related aspects as well.

The Board members were informed that a document which aimed at describe the traceability between the Common Safety Methods (CSMs), the PAs and the business requirements and at providing an overview of the functions which supported the requirements set under the PAs would be made available in due time.

The 4th RP Preparation Programme Manager gave to the Board members a synopsis of the lifecycle of the OSS requirements which would be the main focus of the above-mentioned "vision" document.

It was added that the Agency was in the process of determining the features of the OSS, i.e. the high-level services which the system would provide –the level of reliability of the tool and the level of security of the information received– in order to be able to develop, at a next stage, all the detailed functionalities and

security requirements of the tool and to put in place, after completing the cycle development of the software, all the different test scenarios and validation exercises.

The 4th RP Preparation Programme Manager stated that the information corresponding to the three first levels of the OSS requirements lifecycle, i.e. the supporting legal framework, the business requirements and the main features, was considered sufficient enough to enable the Board members to proceed to the formal adoption of the specifications.

The Board members were also given a brief description of the functions of the tool –in total 37 or more– and concrete examples were also provided in that regard. It was clarified that ERTMS would be also included in the list of domains to be covered by the business requirements and that the Agency intended to define a certain degree of priority for each of the functions of the tool

Moreover, the 4th RP Preparation Programme Manager presented a summary of the features of the OSS, i.e. the services which the tool would be supposed to provide and which mainly consisted of a user management layer, an application submission layer and an application management layer.

He also announced that the Board members would be soon provided with a revised version of the “vision” document which was regularly updated and was meant to give a general overview of the scope of the project, the list of its possible users, as well as of the functionalities and the features of the tool and a description of the method followed by the Agency in the development of this tool.

It was emphasised that all the information summarising the scope, the proposed approach, the main functionalities and services provided by the OSS would be included in the “vision” document which would additionally provide a description of the non-functional requirements containing information mainly related to the security level of the information and the availability of the tool and it was pointed out that this material should be considered as a sufficient feedback for the Board members to be able to adopt the relevant OSS specifications.

The Chair appreciated the initiative taken by the Agency to have the Board actively involved in the process of developing the OSS tool at such an early stage and admitted that the OSS project was the most crucial part of the work to be delivered under the 4th RP despite the fact that the formal adoption of the relevant MB decision was not envisaged before September 2017.

Belgium took the opportunity to inform the Board members on the discussions which had already been held within the EB during its meeting in January 2017 on the approach proposed by the Agency. More specifically, it was mentioned that the EB members had been requested to express their views on the level of details which they considered appropriate to be given in order to be able to review the Agency’s proposals.

The Board members were informed that the EB had concluded that, despite the technical nature of the OSS tool, the issue on which the Board members would have to decide retained its politically sensitive nature. The significance of holding discussions on the matter not only at technical level among experts but also at a political level between the Board members was also stressed in that regard so that the widest possible endorsement and use of the tool by the Member States, the NSAs and the applicants could be guaranteed.

Belgium summarised that the EB supported the Agency’s proposal for a discussion about the level of details which the Board members should be provided with before adopting the OSS specifications, at least in the form of a discussion on the key principles to be agreed upon, and that the Agency had made the suggestion that, if the Board members wished to be given more information, the Agency could be requested to organise a specific OSS workshop for the MB members to attend.

Belgium expressed its satisfaction with the approach proposed by the Agency so far and found that the level of details which the Agency intended to provide to the Board members seemed proportionate in the sense that it had managed to strike the right balance between the need to provide a sufficient level of details and the need to make sure that information of a purely technical nature would be presented in an understandable and intelligible form to the Board members.

It was also noted that, despite some concerns which had been raised during the EB meeting in January 2017, the proposal made by the Agency was generally supported, but no definitive decision was taken on whether a specific OSS workshop should be organised and the Board members were kindly invited once more to express their views on the idea of a workshop to be organised by the Agency.

The Board members were informed on the current status of the mock-up of the OSS tool. It was pointed out that a first presentation of the mock-up had been done during InnoTrans in Berlin in September 2016 and it was explained that, since that time, the Agency used the same mock-up during all the workshops held with the Sector and the NSAs.

The Board members were presented with a simple OSS mock-up case scenario involving a number of actors as defined in the business requirements, namely the applicant, the project manager and the assessor and mentioned that the decision-making process was not intended to form part of the case scenario to be presented to the Board members.

The Board members were provided with a description of the flow of events and with detailed information on some of the key elements in the use of the tool within the framework of a single project and depending on the actor involved such as access and registration to the tool, the list of applications available to the users, the necessary documentation to be supplied, the review and submission of the application and the steps to be followed after the submission of the application, the review of the completeness check report and the production of the formal assessment report and the management of the different application timeframes.

The 4th RP Preparation Programme Manager stressed that the mock-up case scenario which had just been presented to the Board members was really useful for clarifying open points and building a user-friendly tool; it was explained, for instance, that when this mock-up had been presented for the first time during a workshop, it had been discussed with the NSAs whether the appointment of single contact point for the NSAs would be to the benefit of the users.

Italy thanked the Agency for that useful and interesting presentation, was pleased that the Agency had made a progress on the work related to the OSS project so rapidly and asked whether it had been envisaged in the tool for the applicant to be notified whenever a new document was uploaded on the system.

Latvia asked the Agency whether information related to the network gauge was available in the application form.

The Agency, in response to the practical issue raised by Latvia, explained that the Agency had selected a specific template for the applications according to which the applicant would have to define the gauges and pointed out that, for the time being, that template was used only as an example and that the Agency would engage in discussions with the experts on the final template to be used once all the different workflows within the tool were clarified.

Latvia insisted that it was important for the applicant to be able to introduce such information related to the type of the network in the system.

The Agency replied also to Italy that, according to the process previously described, the tool supported the automatically generated notifications and explained that the assessor could raise an issue in the form of a question directly addressed to the applicant who would be notified in such as case, that the assessor had the opportunity to set a deadline for the requested reply and that as soon as the applicant provided the reply the assessor would receive an automatic notification as well.

It was also highlighted that one of the big advantages of the OSS tool was the possibility for a regular exchange between the applicant and the NSA and for any actor involved in the project to be made aware of the issues raised by other assessors and that the ultimate purpose was to allow all NSAs to learn from questions raised by other NSAs as well as from the replies of the applicants on their own assessment.

The U.K. admitted that it was pleased with the work done so far by the Agency, went on to confirm whether the Agency was planning to try this tool with some end users, including industries and mentioned that if the latter was the case such an initiative was very much welcome.

The 4th RP Preparation Programme Manager replied that the Sector organisations and the NSAs had been invited in all the workshops which the Agency had been organising and that this was the approach to be followed for discussing the functionalities of the tool by providing the Sector representatives with an ample opportunity to express their views and to ask for more clarifications and by facilitating the review of the specifications if needed.

The U.K. clarified that it wished to be given more information on whether the Agency intended to involve the users in testing the tool before it would go live.

The 4th RP Preparation Programme Manager announced that this was among the next steps to be taken and that the lifecycle previously described contained a part specifically related to testing. He added that it was foreseen to test the tool with the final users during the validation phase so that the Agency would be ready to use the tool already during the shadow running phase.

The Executive Director intervened to point out that the final validation of the tool would take place during the shadow running phase and that this was one of the reasons for which the Agency had requested additional human resources.

The Commission mentioned that it was very pleased with the development of the tool mainly as regards its IT aspects and indicated that it was absolutely vital to make the system work on time. The need for a coordination between the Agency's work on the IT development of the tool and the development of the legal acts underpinning its implementation jointly by the Agency and the Commission was also stressed; joint efforts would have to be undertaken in order to minimise as much as possible the risk that choices which would be made at a later stage in the process would unreasonably disrupt the IT development of the tool and/or that the IT solutions would inhibit any legally required changes in the methodology to be followed.

Sweden requested the Agency to clarify who will own the information available on the system and under which legal basis.

The Executive Director replied that when it came to technical information any pre-existing IP rights rested with the applicant and suggested that this issue should be also considered from the point of view of the legal framework on data protection which meant that it was extremely crucial for the Agency to secure any sensitive information exchanged between applicants against unauthorised access or disclosure and that this was one of the key tasks to be included in the specifications of the OSS as well as an area on which the Agency should specifically focus its efforts.

The Chair asked whether the Board members were satisfied with the approach proposed thus far by the Agency and the progress made in the relevant work.

RI thanked the Agency for the work done on this extremely complex project and recommended that the new process which would be put in place should be less costly and more than or at least as speedy as the old one.

The Chair highlighted the relevance of this remark for the work to be performed in all the areas related to the implementation of the 4th RP.

The representative of the Netherlands admitted that he was quite impressed by the progress made by the Agency already at that stage and pointed out that it was very important to ensure also that the NSAs could work efficiently with the tool and that their views would be taken into consideration during the testing phase.

He expressed the view that the organisation of an additional workshop, at least for the time being, did not seem necessary and invited the Agency to share with the Board members the conclusions to be drawn from the meetings with the NSAs held on the matter in the form of the report which would mainly reflect the

degree to which the NSAs as potential users of the tool were satisfied with the progress made up until that time.

The 4th RP Preparation Programme Manager announced that the Agency was planning to hold two specific OSS workshops until the end of April 2017 and suggested that the Agency should make available to the Board members a report which would reflect the degree to which the information provided in the “vision” document represented, according to the workshop participants, the necessary feedback that the Board members should receive in order to be able to adopt specifications of the OSS in September 2017.

He also stressed that an overly detailed approach should be avoided and considered that owing to the need to revise certain points at a later stage only a flexible approach regarding the different functionalities and the level of the information to be given to the Board members would make it possible for the Agency to introduce changes on some aspects of the tool without a formal endorsement of those revisions in the form of a decision to be adopted by the Board being necessary for that purpose.

The Chair asked the Agency which were the next steps to be taken as regards the project and how the Board members should prepare for their coming meeting in June 2017.

The Board members were satisfied with the progress made and pleased with the approach followed by the Agency, including as regards level of detail of the information with which they would be provided.

The Chair admitted that he was looking forward to receiving the relevant documents by the end of April 2017.

The Executive Director thanked both the 4th RP Preparation Programme Manager and the OSS IT team for the great work done and, following the point previously made by Belgium, urged the Board members to decide on the form in which the specifications of the OSS would be finally agreed upon.

He found that this was an issue to be discussed during one of the following MB meetings, noted the significance of the related aspects for the final process and repeated that the Agency was committed to the principles embodied in the 4th RP on a simpler, faster and cheaper process –the OSS being one of the key elements of such process– and that the MB should support the efforts of the Agency in achieving those goals.

The 4th RP Preparation Programme Manager reminded that a new version of the “vision” document was already available and would be discussed during the OSS workshop to be held in February 2017 and proposed that this document could also be uploaded on the Extranet so that the Board members could send to the Agency any comments and/or remarks they might wish to make already at that stage.

12. Reflections on the role and function of the Executive Board

The Chair reminded to the Board members that three EB meetings had already taken place and that a first such meeting had been held in September 2016 and the following two meetings had been held in November 2016 and in January 2017.

He mentioned that he had been reflecting on the functioning and the role of the EB taking into account that the EB was supposed to work under a mandate to be given by the MB, its main task being to prepare the decisions to be taken by the MB and that, although the possibility of making provisional decisions on behalf of the MB was clearly envisaged under the conditions provided for in the new Agency Regulation, the EB had not used this power thus far.

It was added that the EB was also entrusted with the tasks of ensuring, together with the MB, adequate follow-up to the findings and recommendations stemming from investigations by OLAF and the various internal or external audit reports and evaluations, including by means of appropriate actions of the Executive Director.

The Chair expressed the view that the current format on the basis of which the EB meetings were being held was a bit restrictive in perspective in the sense that, according to the practice which had been followed up until that moment, the documents were checked and reviewed at a fairly late stage in the process of their

submission to the MB. He also noted that the fact that a document had to be amended as a result of the above-mentioned review was an issue not only for the Agency but also for the Board members which would face serious difficulties in sufficiently preparing their positions in view of the coming Board meetings.

It was announced that a debate had been launched between the EB members with a view to introducing a longer-term perspective in the discussions held within the EB and achieving an early involvement of the Board members so as to make it easier for the latter to follow the developments.

The Board members were informed that a meeting had been scheduled in Brussels the following week for the purpose of holding a discussion on the relevant issues which would be also discussed in further detail during the following EB meeting in April 2017.

It was pointed out that the Board members would be regularly kept updated and that the intention was to present to them the conclusions of the relevant discussions and any suggestions for improvement, including as regards possible amendments to the existing RoP of the EB or to the mandate given by the MB, during their meeting in June 2017.

Denmark welcomed the invitation of the Chair to the Board members for further reflection on the role of the EB, reminded that a quite intensive period was already ahead if one were to look at the RISC, the Expert Group and all the acts which would have to be decided upon and finally adopted for the implementation of the 4th RP and suggested that a broader perspective should be given to the concern raised by the Chair in such a manner that the role played by other forums of discussion –and not only by the EB– could be reflected upon from that standpoint as well.

More specifically, the representative of Denmark expressed his personal view that during the RISC meetings, the participants had the opportunity to be given some useful feedback but were not allowed much time to discuss upon the issues involved before the next RISC meeting and the formal voting procedure to be held on such issues.

It was recommended that a discussion between the Chairman, the Board members, the MB Secretariat and the Commission could help the Board members to better prepare themselves for this crucial phase during which the entire 4th RP would have to be implemented.

The Chair agreed that the MB had indeed a really heavy decision-making schedule ahead account being taken of all the decisions which had to be adopted for the implementation of the 4th RP by the MB.

The Commission agreed with the point raised by Denmark and reminded that many issues were being simultaneously discussed both at the level of the Agency and its working groups and at the level of the Commission –which sometimes needed to revise the relevant documentation for legal or policy reasons– and possibly both within the Working Group and within the RISC itself.

Moreover, it was stated that, given the workload of the Commission and mainly in terms of efficient use of resources, efforts had been made in order to ensure that the Agency and the Commission were working together as closely as possible by involving, for instance, the Legal Service of the Commission at an early stage in the relevant process even when it was mainly for the Agency to develop the relevant proposals in such a way as to ensure that any problematic issues or open points could be identified as early as possible and that the proposals received from the Agency would not have to be substantially amended, except where it was really necessary to re-open some issues even at a later stage in the process.

It was concluded that the objective was to avoid redrafting the proposals as far as possible at a later stage where only a fine-tuning of the relevant documentation seemed feasible and it was pointed out that this required cooperation on the part of the Member States as well so that issues already discussed and agreed upon at the Agency level would not have to be re-debated at the RISC level.

The Chair summarised that the ongoing discussions on the role and function of the EB were mainly focused on working out possible ways in which the EB could organise its workload more efficiently and provide assistance to the MB.

13. Budget execution 2016 and transfer of appropriations, follow-up discharge, audits, Implementing Rules to the Staff Regulations, planning of the MB decisions for the implementation of the 4th RP

The Chair announced that all information points would not be discussed and invited any Board members who wished to be provided with more clarifications or explanations or to raise a specific question or to make a comment or remark to do so during the second session of the meeting.

No specific point was raised in relation to the issues covered by the above-mentioned information items.

14. AOB

The Commission mentioned that, among the issues raised during the discharge procedure about DG MOVE Agencies, which had taken place the previous week, was that related to the possible conflicts of interests to be declared by the Board members.

It was explained that both the Transport Committee and the Budgetary Control Committee of the European Parliament had made the observation that the Declarations of Conflict of interests (DoIs) of all the Board members were not visible on the Agencies' website, including the website of the Agency and that the main justification provided for this omission was related to the natural rotation of the Board members.

The Board members were reminded of their obligation to declare a possible conflict of interests and it was emphasised that the new Agency Regulation explicitly prescribed the actions to be taken by the MB should a matter of conflict of interest arise for one or more of its members in relation to a specific item on its agenda and that all the DoIs of all the Board members should be available in order for the MB to be able to sufficiently monitor and act in such cases.

The Agency was urged to send out reminders to the Board members and, in particular to those who had been newly appointed, for submission of their DoIs as soon as possible.

The issue of the appointment of the reporting officers for the appraisal of the Executive Director was also discussed.

Given that the previous reporting officer and representative of the Commission, Mr. Olivier Onidi, had stepped down as member of the MB, Mr. Matthew Baldwin would, from that point onwards, act as a reporting officer on behalf of the Commission, for the appraisal of the Executive Director. The Chair reminded that the evaluation of the Executive Director had to be performed jointly by the Commission and by the Board and noted that the representative of Finland, Mr. Yrjö Mäkelä, had been appointed as the countersigning officer on behalf of the Board for that purpose.

The Chair thanked the Commission representatives and clarified, on the first point raised regarding the submission of DoIs, that all the MB members who took part in any way whatsoever in the deliberations of the Board –and not just the voting ones– were to be considered as legally bound by the obligation to declare any conflict of interests they might have and to fulfil their relevant duties in that regard.

15. Meeting dates

It was agreed that the next MB meeting would take place on June 27th 2017 in Lille.