



EUROPEAN MEDICINES AGENCY
SCIENCE MEDICINES HEALTH

8 February 2018
EMA/MB/84505/2018 Adopted
Management Board

Minutes of the Extraordinary Management Board meeting for the building approval process of EMA premises in Amsterdam

Held in London on 6 February 2018

The chair opened the meeting thanking the members for their attendance on short notice and welcoming Thomas Reichhart, new alternate for Austria and Bogdan Kirilov, new alternate for Bulgaria. A number of proxies had been received from members who could not attend the meeting and would be read out should a vote be taken. The meeting took place as an extraordinary meeting according to Art. 4 of the Rules of Procedure of the Management Board, due to the need to observe the tight deadlines of the procedure for the notification of a new building, as a first step in the building approval process by the Budgetary Authority. The meeting was held *in camera* and was attended only by members or their alternates, the observers from EEA countries and a limited number of EMA staff, as well as by three representatives of the Dutch government invited to attend point 3. and 4 of the Agenda to provide clarifications.

The chair stated the purpose of the meeting, which was to provide the board with the opportunity to discuss specific elements of the Dutch offer concerning the permanent building for the EMA in Amsterdam Zuidas, before taking a decision on whether to agree to the notification of the EMA's intention to move to a new building. The notification is a first step required by the Agency's financial regulation in the building approval process, and is submitted to the Budgetary Authority (comprising the European Council and Parliament). EMA can only enter into a contractual obligation for its new final premises on the basis of a positive opinion from the Budgetary Authority.

The representative of the European Commission stressed the importance of a swift clarification of all outstanding technical matters in order to proceed with the notification to the Budgetary Authority. Further clarification on interpretation could be requested to the Secretariat-General of the European Commission.

1. Draft agenda for 6 February 2018 meeting

[EMA/MB/59964/2018] The agenda was adopted with no amendments.



2. Declaration of competing interest related to current agenda

The Secretariat informed members of the Management Board that it had reviewed members' declared interests in accordance with the Board's policy on the handling of competing interests. The Secretariat identified no items regarding the agenda that would cause any members to refrain from decision-making, and/or topic-coordinator type of activity, as relevant.

Members were asked to declare any specific interests that could not be drawn from their current declaration of interests that could be considered to be prejudicial to their independence with respect to the items on the agenda. No conflicts of interest were declared.

3. Update on the temporary premises in Amsterdam

At its meeting of 13 December 2017 the Management Board had given the Executive Director authority to assess, chose and accept on behalf of the Agency one of the options offered for temporary office accommodation of the EMA until the permanent building is provided to the Agency by 15 November 2019. After having considered the two options of building offered by the Dutch government in its bid, which did not meet EMA's business needs, the Agency examined further two new proposals, of which one was not in the vicinity of the future premises. It settled for the Spark building, located in the Sloterdijk area of Amsterdam. The choice was based on the fact that no further option was available at the end of January 2018, and that a postponement of the decision was not possible beyond this date, as time is needed to adapt any temporary premise to EMA's needs by at the latest 1 January 2019, when the Agency starts its relocation. The Spark building is seen as a workable solution for a short-term timeframe, until the Agency relocates to the permanent building as of 15 November 2019, and it provides 50% of the space currently available in the EMA building in Churchill Place in London. A dedicated relocation Business Continuity Plan (BCP) to re-prioritise certain activities between March and November 2019 will be required. All costs of the Spark building (except exploitation costs), as well as the removal costs from the Spark building to the final premises and reinstallation in the final premises will be borne by the Dutch government.

Maurice Galla, Project leader of the Dutch Government's Candidacy European Medicines Agency (EMA) and Aginus A. W. Kalis, Dutch Project Director for the Relocation of the EMA provided further information. The Dutch bid to host the EMA foresaw that the conference facilities of the permanent premises would be ready by 1 March 2019 and the office space would then become gradually available. A choice of two temporary premises had been offered to house the EMA's offices until the permanent building was ready. The EMA had asked for further options for temporary space allowing to host both offices and conference facilities in a single building in order to avoid being housed in a building site and to allow for speedier construction of the permanent building. The Spark building provides this option and is very well connected to Schiphol airport and to the Central Station. The Dutch government has leased the building, which will now be fitted out and made available by 1 January 2019. The Spark has a lettable floor area (LFA) of 12,800 m² LFA over 10 floors, and will accommodate 877 workstations and a number of meeting rooms. Additional conference facilities are available at adjacent hotels.

Members of the board were interested in further details. The question was raised on how security and confidentiality would be ensured in meetings held in public spaces such as hotels, and who would pay for such spaces. The EMA assured the board that all meetings in which product related aspects were discussed, and which might touch on commercially confidential information, will be held in the Spark building, while other meetings, such as workshops and training, could take place in hotels. The BCP for the temporary building would include a detailed plan of all meetings for which a request for

additional space will be made to the Dutch authorities who will also pay for the additional venues in hotels. Concerning the question whether the Spark building could accommodate all EMA staff members, the EMA considered that the space would be adequate for the limited timeframe foreseen until the permanent building is made available. This is possible, as it is likely that not all members of staff will relocate, and that there will be considerable use by staff of the possibility to telework.

4. Notification of the European Medicines Agency's intention to move to a new building in accordance with Article 88 of the Agency's Financial Regulation

[EMA/749315/2017 – MB Version 2 and Annexes; EMA/70385/2018; EMA/28763/2018; EudraLink 386065421; EMA/779598/2017] The board discussed the notification of the Agency's intention to move to a new building. The building approval process foresees the information to be provided on a template created by the Budgetary Authority. Technical details about the future permanent building have been provided by the Dutch government as stated in the bid, after clarification on metrics for the calculation of the surface. Concerning the financial offer for the rental and maintenance rates however, a comparison between what was stated in the bid presented by the Netherlands in July 2017 within the procedure leading to a decision on the relocation of the European Medicines Agency in the context of the United Kingdom's withdrawal from the Union, and the proposal presented to the Agency on 19 January, highlights a number of inconsistencies. These concern the cost for the annual rent per m² LFA, which EMA understands as inclusive of the fitting out and furnishing of the building, notwithstanding the costs to be borne by EMA for additional fitting-out (for instance for EMA network infrastructure requirements and for Audio Visual technical specifications of the building) as well as parking space for 104 cars, while the current Dutch proposal foresees annual repayments of fit-out for € 50 Million in € 2.5 million a year instalments over 20 years, and car parking rental costs to be additionally charged to the Agency. The annual maintenance rate per m² LFA is now 37% higher than in the July bid. All together these differences amount to an increase by 34% over the total annual rental cost set out in the bid presented in July 2017. A first review by EMA of its additional requirements indicated that the costs to be borne by the Agency for such additional requirements amount to € 2,828,000. The building will be owned by the Dutch Central Government Real Estate Agency (CGREA) and will be leased to EMA as the sole occupant for 20 years. A Diplomatic break clause stipulating conditions for early termination will be included. The current timeframe foresees that the contract can be signed in March 2019 after the conclusion of the building approval process. The start of the building activities is foreseen by 1 July 2018 so that the Agency can start moving into the permanent premises from 15 November 2019.

The delegation of the Dutch government provided background information to their offer as follows. When preparing the bid the main focus was on providing continuity to the Agency. As such it was chosen to offer a purpose designed building in the vibrant Zuidas business district, and to foresee a two-step transition making use of a temporary building. For the construction of the permanent building in just 15 months the choice was made to use a modular building process, and to build the parking garage next to the building, instead of underneath, thus saving 3-4 months in building time. As a result the parking will now be located in a privately owned lot and will be subject to rental by the Agency. It currently seems feasible to start construction work of the building in June 2018 in order to deliver it in November 2019. The rental price offered to EMA is considered advantageous, as CGREA offers an inclusive service minimising expenditure for consultancies, and being a governmental body does not work for profit. Furthermore, the location of the building is among the most expensive in the Netherlands. The Dutch financial offer is therefore cost-based and includes other elements that need to be considered as well to get a full understanding of its value. These are a further € 18 Million one-off

incentive to be used for fitting-out costs or for rent payments, as well as a rent-free period extending to 1 January 2020. Further elements of the offer are rent-free accommodation in the temporary premises, paid removal from the Spark building to the final premises, intensive support and unbundling of EMA by the Dutch government through supply of design and support, and the option for participation in government procurement framework contract for services, as well as a € 8.1 Million investment in the EU network. When presenting the bid the Dutch government made it clear that it would not provide a structural contribution to the EMA budget, and that the lease would be based on actual costs. The figures mentioned in the bid were indicative and included only for the purpose of allowing a comparison with other offers. A final offer will be possible only at the end of March, once all tender procedures for the building are concluded. Concerning the difference by € 50 Million equivalent to € 2.5 Million a year for fitting out costs highlighted by EMA, the Dutch government provided an offer only for a 'hull' building, as the requirements set out by EMA and by the Council were not detailed enough to do all the necessary interior design and would be discussed in detail with EMA should Amsterdam be chosen. The building was defined as a turnkey accommodation, as it did allow for business continuity since no market prospect would be necessary. The Dutch government believes that the bid presented in July was clear enough and proposes to work out the price of rental and maintenance together with the EMA once the offer by the contractors is known.

Reactions to the presentation by board members included complete surprise over the fact that the Dutch government would not comprise the fitting out and furnishing in the offer of a building, that the cost of maintenance was increased, as well as that an increase in overall costs of 35 to 44% could have taken place in just two months. There was a request for clarification of the non-profit status of CGREA, and whether it applied to the building or to the company. A member warned that acceptance by the board of an expenditure of € 50 Million needs to be well justified and explained. Concerning upwards trends in the Amsterdam real estate market, it was felt that reflecting them in the costs charged to the EU budget cannot be justified, as the increase of value in Zuidas is caused by the fact itself that the EMA is moving there. The representative of the Dutch government responded inviting the board to consider the financial offer within the complete bid as set out in correspondence between the EMA and the Minister of Health, Welfare and Sports. The figures provided to the EMA and presented at the board are only estimates, as the final figures will only be available once the tenders are completed. He proposed to suspend the notification procedure until the final figures are available while discussing in parallel the interpretation of the bid. The Netherlands will in the meantime continue to work on the temporary and permanent buildings.

The Executive Director agreed to the circulation to the board of the above referred correspondence in a post mailing. He did not agree with postponing the decision of the board to March which would not be compatible with the timelines of the building approval process. When preparing their offers for the decision to host the EMA no government knew all future costs, but only the requirements of the Agency. As a consequence, all figures presented must be honoured in agreement with the position of the Management Board.

A further question addressed whether the price of € 433/m² is justified, taking into account prices in the Zuidas district as per the market surveys. The Dutch government delegation replied that such market prices refer to 'hull' buildings and are not comparable to the offer for EMA. Further questions followed. Clarification was sought on whether the building would be delivered in November as a 'hull' or a fully fitted and furnished building. More information on the indexation of the rental costs was requested. The Dutch government delegation stated that there had been no intention to misrepresent the offer, but that a yearly rental figure had not been included as there was a competition with another 18 Member States. The offer was repeated, to continue to work on the building while taking time for further discussion and clarification once final figures can be transparently shared after the tender

procedures. It was objected by a member that there can be no information kept confidential from the board who needs to be able to compare the new offer to the bid presented in July 2017. The Dutch delegation agreed that clarity on figures is important and that this was the reason why it would prefer to wait until the final figures were available. The Executive Director disagreed, as anything exceeding the offer in the bid would not be relevant for the board. The representative of the European Commission warned against the very serious risk for the Agency and for Amsterdam in delaying the notification to the Budgetary Authority. It must be recognised that the Netherlands have an understanding of the bid they presented which is not shared by the board. The questions that arise concern costs and their correspondence to the original bid. The Secretariat-General of the Commission will be approached for clarification, but may not be able to resolve all matters. The chair, having established that no member of the board was in favour of accepting the current offer, thanked the Dutch delegation who left the room.

The board continued its discussions. The Dutch member of the board pleaded with his colleagues not to exercise undue pressure on the Netherlands by only considering the EMA's interpretation of the bid. Other members felt that whereas a small divergence from the July bid could be tolerated, 34% could not be accepted. It was felt that the outcome of the ongoing tenders in the Netherlands should not be of concern to the board, who in the interest of EMA should only consider the offer contained in the bid. The Deputy Executive Director explained that the EMA's interpretation took into account the assessment conducted and published by the European Commission, and that no reference to 'casco' or 'hull' building was to be found in the bid. It was pointed out that the board is unable to judge correctly the adherence of the current offer to the original bid, and that only a third party might be able to provide the prerequisite clarity on which to take a decision. Further contributions mentioned the fact that the Member States who had presented a formal offer to host the Agency had had no possibility to modify their bid. Hosting the EMA should not be considered a business, although it is clear that all 19 Member States who applied saw an opportunity for jobs, investments and academic potential.

The representative of the European Commission agreed to convey to the Secretariat-General the doubts of the board on the interpretation of the Dutch bid, and stated that a divergence of € 2.5 Mio a year would not justify a departure from the decision taken on the future seat of the Agency. It should also be avoided that an inconclusive situation is transferred to the Budgetary Authority. The board decided not to await the results of the tenders, as irrelevant to the decision it has to take, and instead to request the Dutch government to reconsider the proposal to bring it in line with the financial offer included in the bid presented in July. In the meantime clarifications on the interpretation of the July bid by the Secretariat-General would be sought, if necessary, by inviting representatives to the board. With these elements the EMA can then proceed with a written procedure to be concluded with the shortest possible delay. However, should further discussion be needed, the board would reconvene for a second extraordinary meeting at the end of February. The representatives of the Dutch government were informed of the conclusions by the board.

List of participants at the 9 Extraordinary Management Board meeting, held in London, 6 February 2018

Chair: Christa Wirthumer-Hoche

	Participants
Belgium	<i>Apology received from Xavier De Cuyper Proxy to Germany</i>
Bulgaria	Bogdan Kirilov
Czech Republic	<i>Apology received from Jiří Bureš Proxy to Slovakia</i>
Croatia	Siniša Tomić (<i>alternate</i>)
Denmark	Mette Aaboe Hansen (<i>alternate</i>)
Germany	Karl Broich (<i>member</i>)
Estonia	Kristin Raudsepp (<i>member</i>)
Ireland	Lorraine Nolan (<i>member</i>)
Greece	Aikaterina Antoniou (<i>member</i>)
Spain	<i>Apology received from Belén Crespo Sánchez- Proxy to Portugal</i>
France	Dominique Martin
Italy	Nando Minella (<i>alternate</i>)
Cyprus	Loizos Panayi (<i>member</i>)
Latvia	<i>Apology received from Svens Henkuzens Proxy to Estonia</i>
Lithuania	<i>Apology received from Gintautas Barcys Proxy to Poland</i>
Luxembourg	<i>Apology received from Laurent Mertz Proxy to the Netherlands</i>
Hungary	Csilla Pozgay (<i>member</i>)
Malta	John-Joseph Borg (<i>member</i>)
Netherlands	Hugo Hurts (<i>member</i>)
Austria	(<i>alternate</i>)
Poland	Grzegorz Cessak (<i>member</i>)
Portugal	Rui Santos Ivo (<i>member</i>)
Romania	<i>Apology received from Alexandru Velicu Proxy to Malta</i>
Slovakia	Zuzana Baťová (<i>member</i>)
Slovenia	<i>Apology received from Andreja Čufar Proxy to the Netherlands</i>
Finland	<i>Apology received from Sinikka Rajaniemi Proxy to Estonia</i>
Sweden	Sara Rosenmuller (<i>alternate</i>)
United Kingdom	Jonathan Mogford (<i>alternate</i>)
European Parliament	<i>Apology received from Björn Lemmer Apology received from Tonio Borg</i>

	Participants
	<i>Proxy to DG SANTE</i>
European Commission	Xavier Prats-Monné (DG SANTE) Stefano Soro (DG GROW)
Representatives of patients' organisations	<i>Apology received from Ilaria Passarani</i> <i>Proxy to Yann le Cam</i> Yann le Cam
Representative of doctors' organisations	<i>Apology received from Wolf Dieter Ludwig</i> <i>Proxy to Germany</i>
Representative of veterinarians' organisations	Nancy de Briyne
Observers	<i>Apology received from Runa Hauksdottir (Iceland)</i> <i>Apology received from Brigitte Batliner (Liechtenstein)</i> <i>Apology received from Audun Hågå (Norway)</i>

European Medicines Agency	Guido Rasi Noël Wathion Stefano Marino Nerimantas Steikūnas Marie-Agnes Heine Ulrike Nagl Silvia Fabiani Sophia Albuquerque
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Dutch delegation present:	Maurice Galla (<i>observer</i>) (<i>partial attendance</i>) Aginus A. W Kalis (<i>observer</i>) (<i>partial attendance</i>) Hannah Koppenaar (<i>observer</i>) (<i>partial attendance</i>)
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