

MINUTES
of the 38th meeting of the Administrative Board
held in Valenciennes
on Thursday 31 March 2016

The meeting opened at 09.15, Mr. Mats Andersson was in the Chair. The Chairman of the Sub-Committee, Mr. Robin Groth, was also present. The secretariat was provided by the European Railway Agency. The ERA Management Team, Mr. Josef Doppelbauer, Executive Director and ERA support staff were present.

ATTENDANCE LIST

MEMBERS OF THE ADMINISTRATIVE BOARD		
EU MEMBER STATES (with voting rights, one vote per member state)		
Mr. Klaus Gstettenbauer	Austria	Proxy Netherlands
Alt: Mr. Wolfgang Catharin		Excused
Ms. Clio Liegeois	Belgium	Excused
Alt: Ms. Valérie Verzele		Proxy United Kingdom
Mr. Veselin Vasilev	Bulgaria	Excused
Alt: Ms. Giulietta MARINOVA-POPOVA		Excused
Mr. Krešimir Raguž	Croatia	Present
Alt: Ms. Ljiljana Bosak		Excused
Ms. Chrystalla Mallouppa	Cyprus	Excused
Alt: Ms. Elpida Epaminonda		Excused
Mr. Jindrich Kusnir	Czech Republic	Excused
Alt: Mr. Luboš Knizek		Proxy France
Mr. Jesper Rasmussen	Denmark	Excused
Alt: Mr. Hans Christian Wolter		Present
Mr. Indrek Laineveer	Estonia	Present
Alt: Mr. Raigo Uukkivi		Excused
Mr. Yrjö Mäkelä	Finland	Present
Alt: Mr. Tero Jokilehto		Excused
Mr. Benoît Chevalier	France	Present
Alt: Mr. Hubert Blanc		Present
Mr. Mr Wolfram Neuhöfer	Germany	Excused
Alt: Mr. Michael Schmitz		Present
Mr. Triantafyllos Papatriantafyllou	Greece	Present
Alt: Mr. Grigoris Sampatakakis		Excused
Mr. Gábor Rácz	Hungary	Present
Alt: Ms. Helga Nemeth		Excused
Ms. Mary Molloy	Ireland	Excused
Alt: Ms. Caitriona Keenahan		Present
Mr. Antonio Parente	Italy	Excused
Alt: Mr. Giorgio Morandi		Present
Mr. Maris Riekstins	Latvia	Excused
Alt: Mr. Juris Krastins		Present
Mr. Martynas Čekanauskas	Lithuania	Proxy Latvia
Alt: Ms. Giedre Ivinskiene		Excused

Mr. André Bissen	Luxembourg	Present
Alt: Mr. Marc Östreicher		Excused
Appointment pending	Malta	Excused
Appointment pending		Excused
Mr. Hinne Groot	Netherlands	Present
Alt: Mr. Marnix Van der Heijde		Excused
Mr. Ignacy Gora	Poland	Excused
Alt: Mr. Michal Zieba		Present
Mr. Paulo de Andrade	Portugal	Excused
Alt: Ms. Ana Miranda		Excused
Mr. Claudiu Octavian Dumitrescu	Romania	Excused
Alt: Mr. Gelu Dae		Excused
Mr. Mikuláš Sedlák	Slovakia	Excused
Alt: Mr. Miroslav Dorčák		Present
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 CHAIRMAN	Sweden	Present
Alt: Mr. Carl Silfverswärd		Proxy Finland
Mr. Robin Groth	United Kingdom	Present
Alt: Mr. Chris Angell		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: 4 votes in total)		
Mr. Henrik Hololei		Proxy to Ms Kazmierczak
Alt: Mr. Fotis Karamitsos		Excused
Mr. Olivier Onidi		Excused
Alt: Mr. Patrizio Grillo		Present
Mr. Sian Prout		Excused
Alt: Ms. Ainhoa San Martin		Present
Ms. Agnieszka Kázmierczak		Present
Alt.: Ms. Paloma Aba Garrote		Excused
SECTOR REPRESENTATIVES (no voting rights)		
Mr. Libor Lochman	Railway undertakings	Excused
Alt: Mr. Markus Vaerst		Excused
Ms. Monika Heiming	Infrastructure managers	Present

Alt: Mr. Andreas Matthä		Excused
Mr. Philippe Citroën	Railway industry	Present
Alt: Mr. Gilles Peterhans		Excused
Mr. Guy Greivelding	Workers union	Excused
Alt: Ms. Sabine Trier		Excused
Mr. Josef Schneider	Passengers	Present
Alt: Mr. Maurice Losch		Excused
Mr. Ralf-Charley Schültze	Rail Freight Customers	Present
Alt: Mr. Gavin Roser		Excused

I. SUMMARY OF DECISIONS

THE ERA ADMINISTRATIVE BOARD

- ✚ adopted the minutes of the 37th meeting held on 25 November 2015
- ✚ adopted the ERA Statements of Estimates 2017
- ✚ adopted an amendment to the ERA budget 2016
- ✚ adopted an amendment to the ERA Single Programming Document 2016
- ✚ adopted the Annual Activity Report 2015
- ✚ adopted the assessment of the Annual Activity Report 2015
- ✚ adopted by analogy- Commission Decision C(2015)970 on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work ;
- ✚ adopted a decision on working time for ERA staff
- ✚ adopted general implementing provisions regarding Article 54 of the Conditions of Employment of Other Servants of the European Union (reclassification TAs)
- ✚ adopted general implementing provisions regarding Article 87(3) of the Conditions of Employment of Other Servants of the European Union (reclassification CAs)
- ✚ empowered the Executive Director to submit a draft delegation of the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority empowered to conclude contracts of employment to the Executive Director of European Union Agency for Railways

Votes: All decisions were taken unanimously, except the decision on the Statement of Estimates 2017 with 25 votes in favour-out of 26 voting members- and 1 vote against from Germany;

and decision on the Annual Report 2015 and assessment of the Annual report with 1 vote in favour 25 -out of 26 voting members- and with 1 abstention from Denmark.

II. MINUTES

1. Adoption of the Agenda

The agenda was adopted.

2. Adoption of the minutes of the 37th Administrative Board meeting

The minutes of the 37th AB meeting were adopted with a comment from Denmark to add the sentence *'it was exclusively directed to the Commission'* under on point 15 'proposal from Denmark for optimization of ERA meeting rooms' possibilities'.

3. Statement of Estimates 2017

The Head of Unit of Resources and Support a.i. presented the Statement of Estimates 2017 (SoE). He explained that the Agency, in line with the Financial Regulation had to send by end of January 2016 the statements to the Commission. It was pointed out that the Sub-Committee discussed lengthy during its January meeting how the budget resources could better respond to the increased activities and tasks to be assigned to the Agency and the estimates proposal made by the Executive Director. It was explained that the statements, forwarded already to the Commission, had been now submitted also to the Board for adoption.

Furthermore, the SoE 2017 included, in relation to the version presented in January 2016 to the Sub-Committee, a provision for the grant agreement with Directorate General for European Neighbourhood Policy and Enlargement Negotiations, Regional Cooperation and Programmes (DG NEAR) for the IPA (Instrument for Pre-Accession) project, which was agreed in 2016 for a duration of two years and for a total budget of 300k€ with an amount of 150k€ allocated annually.

It was also explained that for this reason the Board was asked to adopt also an amended budget 2016 with an additional 150 k€, due to the fact that this amount was not included in the ERA Budget 2016 adopted in November 2015 by the Board. For 2017, the amount of 150k€ would be added in the proposal for the final budget 2017 planned to be adopted, as every year before the end 2017.

Furthermore, it was clarified that the baseline for drafting the SoE 2017 was the Commission Communication dated 2013 on the 'programming of human and financial resources for decentralized EU agencies 2014-2020'. The Commission in its Communication had planned for the 2017 ERA budget an EU contribution of 26 Mio€ and 139 temporary agents (TA) posts in the establishment plan. The Agency had requested an EU contribution of 31Mio€, five million more than what was envisaged in the Commission Communication and 145 TA. The reason for this was the increased tasks planned under the 4th Railway Package (4RP). It was highlighted that a number of new tasks were planned to be performed by the

Agency which were not known at the time the Communication was drafted, for example, the activities relating to the One-Stop-Shop (OSS) and occurrence reporting.

It was pointed out that the Agency analysed the resources needed for these new tasks and, in agreement with DG MOVE, estimated that an additional amount of 5 Mio€ and six additional temporary agents posts should be allocated to the budget 2017.

Moreover, the needs for resources in the year 2017 concerning the development of OSS would require an amount of 2.7 Mio€ to be allocated to the ERA budget while for the tasks relating to the occurrence reporting one Mio€. In addition, an amount of 0.4Mio€ was estimated for subsidy-financed posts as well as frontloading temporary agents and contract agents posts for 900 k€.

The Board was requested to adopt formally the SoE 2017 as presented, noting that they have been already forwarded to the Commission.

Germany considered that the Commission Communication 2013 had taken into consideration the tasks related to the Agency for the 4th Railway Package, and therefore, failed to see the justification of the need for additional contract/temporary agent posts in the SoE 2017. It was affirmed that Germany did not agree with the budget increase, above the limits of the Communication, requested by ERA for 2017.

The Commission informed the Board that a positive discussion took place between DG MOVE and DG BUDG on different options in order to ensure the availability of the necessary estimated human and financial resources and to explore possibilities so as contractual staff could be recruited instead of temporary agents with the aim to bridge the gap until 2018. It was highlighted that according to DG BUDG the Agency's needs should be able to be covered by using different options for the resources allocation.

It was announced that DG MOVE already allocated 2 Mio€ from its own financial resources to the ERA budget in order to cover as much as possible the gap of 5 Mio€ and discussions were under way to find other ways to increase such additional allocation as much as possible. This arrangement had been validated by DG BUDG.

The Executive Director thanked the Commission, both DG BUDG and in particular DG MOVE, firstly for the strong support during the budgetary negotiations and, secondly, for they willingness to contribute from its own budget in order to support financially the new tasks of the Agency. In addition, he thanked all members of the Board who supported the Agency, in particular, the sector organisations which had been actively lobbying in favour of the ERA requests in terms of resources which were crucial for building-up the preparation for the tasks under the 4RP.

He acknowledged that several scenarios were studied and planned in detail, in order to see which activities can be advanced already in 2016 or postponed in 2018. He highlighted the importance of having the certainty that the OSS would run as planned in 2018, otherwise it would not be possible to implement the 'shadow running', an activity absolutely essential for the implementation of the tasks of certification

and authorisation under the 4RP technical pillar. For that, it was fundamental that the necessary human resources were made available and that adequately trained personnel were on board on time for starting the implementation phase in 2018.

Finally, the Executive Director insisted on the fact that these two tasks had to be implemented imperatively, whereas for the others more flexibility could be allowed. He announced also that the discussion about the retained scenarios will take place during the next Board meeting in June 2016.

The Sub-Committee Chair, after reporting the discussion on the request to significantly increase by 20% the budget allocation and as well the TAs posts, he wished to clarify what had to be decided and recorded. He considered a good progress the fact that ERA should, in generally, have a budget covering the needs but he wanted to assured sure that ERA got all the resources needed to deliver the outputs for 2017.

The Commission considered important that the SoE 2017 should include at least the number of establishment posts as foreseen in the Commission Communication 2013 and those posts were, indeed, confirmed. In order to ensure further resources other flexible arrangements between DG BUDG, DG MOVE and the Agency were possible in order to guarantee the availability of the needed resources. It was pointed out that currently it was difficult to predict what the final outcome of the negotiations would be, however, the process was clear as well as the willingness of DG BUDG to discuss the various options which would not entail an increase in the EU budget but rather a reshuffling.

Germany wished to know whether the two additional million euros made available from the Commission were enough to cover the human and budget needs of the Agency so as to face all the challenges ahead.

The Executive Director confirmed that the two million euros were DG MOVE contribution and allocated from its own budget. Moreover, additional funds should be available from DG BUDG from other sources, so that in terms of the overall budget the situation was very close to the estimate made the Agency. He said that currently the Agency was assessing some scenarios on how to optimize the use of these resources and budget also when considering their impact and distribution over the next three years until 2018.

The Commission confirmed that the extra amount of approximately 5 Mio€ could be covered up to 2 Mio€ from the DG MOVE budget and 1.5 Mio€ from DG BUDG's own 2017 budget reserve for a total amount of 3.5 Mio€. The Commission services were working to identify any savings to be made from DG MOVE in its 2016 budget and that could also be added to the 2017 ERA budget. According to the estimations, these savings should be around 0.7-1 Mio€. Finally, internal transfers from other savings from other Commission Directorate-Generals were requested. Therefore, it was confirmed that 3.5 Mio€ were secured as well as the mentioned additional sources from the 2016 savings. However, it was clarified that the full 5 Mio€ were not yet confirmed but that could happen by autumn 2016 depending on the 2016 outturn and in any case in time for the adoption of the ERA budget 2017.

The Executive Director confirmed that this should take place in time for the November 2016 Board meeting during which the Agency budget 2017 should be adopted and by then the final confirmation of the EU contribution will be available.

Germany wished to receive confirmation on the fact that 1.5 Mio€ were savings from DG BUDG, 2 Mio€ from DG MOVE and 1.5 Mio€ had still to be found but that it was envisaged that they would be financed by savings as well.

The Commission replied that the funds allocated to ERA from DG BUDG were considered a reserve, while those coming from DG MOVE were considered as savings.

The Executive Director clarified this arrangement will not have an impact on the overall envelope of the Commission's budget 2017 and, therefore, there will be no increase of the total budget.

In addition, the Head of Unit of Resources and Support a.i. mentioned to that a modification was proposed in the Agency's 2017 budget structure and that the related budgetary comments in Title 3 had been modified to mirror the SPD 2017 in order to increase transparency and visibility and align them with the different objectives under each activities of the SPD 2017.

The Chair noted that the SoE 2017 of a total of 31,85 Mio€ and 145 establishment posts, were submitted end of January 2016 to the Commission including the additional budget of 5 Mio€ and six posts and that German's position was in favour of respecting the 2013 Commission Communication in terms of budget allocation for the year 2017. He said that the Board acknowledged the explanations regarding the need for further resources and wished that the on-going discussions continued in a way to reach a positive arrangement for the Agency and cover its needs for the year 2017.

The Statement of Estimates 2017 was adopted by the Board with 25 votes in favour and 1 vote against from Germany.

4. Amendment ERA Budget 2016

The Head of Resources and Support Unit a.i. explained that in February 2016, the Agency received as a subsidy 300k€ following the signature of a grant contract signed in November 2015 with the Commission - DG NEAR. The purpose of this contract was the award of a grant to finance the implementation of an action relating to "EU pre-accession support to the EU candidates and potential candidates (Western Balkans and Turkey) by the European Railway Agency for 2016-2017".

Therefore, a revenue and expenditure of 150k€ for each year had to be included in the ERA budget 2016 and 2017. For that, an amending budget 2016 was proposed to be adopted by the Administrative Board.

The Chair of the Sub-Committee confirmed that the proposed amendment was discussed in detail in the Sub-Committee and it was considered as a quite straightforward modification which would bring

additional funds to the Agency for a legitimate project and, therefore, it was recommended to be adopted by the Board.

The Executive Director gave further details on the purpose of this agreement, which included also supporting EU neighbouring countries present in the OTIF framework was to secure the status of the European standards and regulations in neighbouring countries and that was of strategic importance. These aspects will be discussed further during the AB Workshop on SPD 2017.

The Amendment of the ERA Budget 2016 was adopted unanimously by the Board.

5. Amendment of Single Programming Document (SDP) 2016

A proposal for amending the SPD 2016 was presented to Board by the Head of Corporate Management and Evaluation Unit. The amendment concerned two aspects of the SPD 2016, the risk register and the procurement plan. Concerning the risk register, it was explained that the Agency was not able to finalize it on time for November 2015 together with the adoption of the SPD 2016 because it was necessary to look further and more closely to the evolution of the 4RP, and consequently, it was presented for adoption during this meeting as an amendment of the SPD 2016.

It was recalled that one of the purpose of the work programme was to identify the main risks which may have an impact on the achievement on the Agency's objectives, in order to take appropriate action to address them. Hence, the risk management process was integrated into the annual activity planning and, in line with the ERA management standards, a complete risk identification and assessment covering all areas of the Agency had been conducted in October – November 2015.

The most relevant information of such assessment was summarized in the 'risks register 2016'. The register included elements on the main causes and potential risk impact, categories of significant and critical risks assessed at inherent and residual level according to internal procedures as well as mitigating actions, already in place or planned for the future aiming to reduce risk exposure to an acceptable level. Furthermore, it was clarified that the status of the actions and changes in the risk levels were planned to be reported in the coming year and included in the Annual Activity Report 2016.

The other aspects of the proposal to amend the SPD 2016 concerned the Agency's work on developing a Common Occurrence Reporting System which was at the detailed planning stage. As a result, it was explained that the Agency had currently a much clearer idea of the supporting expertise needed to be procured to achieve the specific objectives for the work. At the time the Work Programme 2016 was planned and finalized, the intention was to complement the deliverable of a common reporting taxonomy and IT platform by developing a risk model to make sense of the data collected. It became clear that implementing this kind of data collection framework and system would likely have taken many years. On that basis, the Agency we would not have sufficient data to populate a quantitative or semi-quantitative risk model for many years. By that time, any model to be built in 2016 would need to be substantially revised.

Therefore, it was proposed to commit the funds allocated to achieve the other objectives of the project which concerned gathering and disseminating intelligence on state-of-the-art methods, selection and proposal of well supported methods and plans and description of a long term plan for evolution of risk profiling built on better data.

In addition, another aspect concerned by the amendment of the work programme was the Safety Alert System. In late 2015 the Commissioner wrote to request that the Agency worked to deliver a tool allowing sharing time-critical safety information between the actors concerned. The Agency was pressed to produce something in a very short timescale while the internal IT resources were already committed on other high priority topics such as registers and OSS. The engagement with DIGIT on the website work provided an opportunity to respond quickly to the Commissioner's request. After a review of the Common Occurrence Reporting Programme the Agency identified some spending that could be deferred, like the EU level risk model, and further efficiencies from consolidation of meetings and review of missions' commitments to be made.

Finally, another aspect to be covered by the amendment concerned the main public website which had to be redesigned. This was already planned in the procurement requests for an amount of 60k€. Following a market research, the Agency decided to contract DG DIGIT for the development of a vacancy application tool, a call for opinions tool and for hosting and website maintenance by increasing the budget by 20k€.

The Sub-Committee Chair reported that the Sub-Committee debated twice, during its January and March 2016 meetings, and expressed its concerns about how the amendments to the work plan should be addressed considering the detailed consultation process which took place before the conclusion of the programming document as well as the investment of the stakeholders on the one hand, and on the other, the need to allow for flexibility to new needs and changes in the tasks and priorities.

In addition, the debate helped to expose and discuss how to address the risks. It was stressed indeed that one important issue to acknowledge was how to think about risk mitigation and risk analysis. In particular, he thanked the Commission for its contribution which helped the Agency understand where the focus had to be put on the risks assessment, in relation to the annual programming and how to mitigate such risks. He pointed out that the process was considered fruitful both regarding the risk register as well as the modifications to the procurement plan which were quite straightforward; both were debated and supported by the Sub-Committee. Finally, he thanked the Agency for the presentation and the work done and in particular the Commission for the valuable guidance on the drafting of the risk register.

Germany thanked for the explanations on the amendment proposed and requested that the aspects of the funding of the changes regarding the procurement plan were clarified. It was understood, from the presentation that the additional money necessary would be covered by reduction and savings in other budgetary posts, so that there would be no impact on overall expenditure or personnel. However, as this aspect was not explicitly mentioned in the written explanations, Germany asked to report specifically on

this element in the Board minutes and provide details on where the cuts should be made and how the additional 66 k€ would be financed.

Explanations provided as requested from Germany after the meeting:

“The budget line for communication (and especially the position for visual/design/media services in 2016) will be cut by 20 KEUR and the money transferred to the budget line for the website”.

‘For the 46 KEUR Safety Alert system, the planned “international accident investigation conference” had to be postponed to 2017 because of a clash with another investigation conference and this released funds for the safety alerts tool’.

Denmark fully supported the proposal for the amendment; however, it wished to point out that this change should have no relation to the use of the common occurrence system as built up and whose creation was supported also by Denmark. It was highlighted that the aim was not to impose all system elements in a compulsory way for all occurrences and, this was in line with the thematic approach taken also by Denmark. Indeed, the system had to be supported as such but Denmark would not like to see it becoming obligatory so as everyone would have to implement all the parts of this system in every occasion. Finally, it proposed to change the wording of the text by replacing the reference to ‘better data’ by ‘consolidated and comparable data’ as this matched to the purpose of the system in order to work properly.

The Chair expressed its satisfaction with the comments received and thanked the Agency for the presentation and the work done and in particular the Commission for the valuable discussion about the risk register.

The amendment of the SPD 2016 was adopted unanimously by the Board.

6. Annual Report 2015 and Assessment

The ERA Business and Planning Officer explained that the adoption of the Annual Activity Report (AAR) by the end of April of year n-1 was a requirement set by the Agency Regulation.

In addition, the Board had to carry out an analysis and an assessment of AAR and forward it to the Budgetary Authority and the Court of Auditors by 1 July as stipulated in the Agency’s Financial Regulation. It was recommended that it would make sense that the Board adopted the AAR 2016 and Analysis and Assessment report at the same time so as to be published them both together.

Furthermore, it was explained that the AAR 2015 concluded that 201 outputs and 11 KPIs were assessed for 2015 and the rate of successful achievement reached 80% and 73% respectively. Some of the main achievements for year 2015 were the cleaning up of national rules, development of a common European safety culture with the establishment of a closer cooperation with EASA and EMSA, the safety occurrence

reporting and quite significant progress in ERTMS with the release 2 of baseline 3, a very successful ERTMS conference in Lille and the a launch of the ERTMS stakeholder platform.

Finally, a strategy had been developed for the preparation and implementation of the 4RP transition with the establishment of an Agency Task Force in early 2015, while a successful conference on 4RP was organised in Luxemburg. Finally, the communication strategy had been adopted in November 2015.

The Commission strongly supported the achievements presented in the AAR 2015 and considered that they were quite substantial. It congratulated the staff of the Agency and, in particular, the Executive Director for the successful year, especially regarding the achievements in the field of ERTMS and the significant milestone to have the new baseline 3 released which will become the reference for, at least, the next five years as well as the conferences organised and the important reports in the field of safety and interoperability.

Denmark agreed with the Commission's positive position and mentioned that I did not notice any discrepancy between the financial framework and the thematic issues accomplished. From a more formal perspective it underlined the fact that it was not obvious how the Board could vote on the report as the version with Commission's comments was not received sufficiently in advance for consultation by the members of the Board. Denmark implied that there was no final collective document and text to vote on and, consequently, there was no clarity on the version of the report that should be adopted by the Board.

The business and planning officer explained that the version to vote on should be draft 2 with highlighted track changes sent to the Board before the meeting, so the differences could be seen between the draft 1 sent at the end of February and the draft 2 sent with the Commission's comments.

The Chair suggested considering a better system to manage the consultation on the drafts of the AAR and referred to the discussions that took place last year regarding the report structure. In addition, he said that for the future the Agency should draw the necessary lessons and manage, in terms of timing, the consultation process on the annual report more efficiently. He pointed out that for next year more time will be available as the deadline for adopting the report will be end of June which will allow longer consultations and appropriate consolidation of comments so as the Board to receive the final versions at least two weeks before the meeting.

The Netherlands expresses its satisfaction with the content of the report and considered that it reflected the good results achieved during the year 2015. It was suggested that the Agency should organise adequate publicity on the release of the AAR 2015, such as a press release highlighting achievements and communicating properly the results of the Agency.

The Executive Director agreed and said that the suggestion was already taken into account. The publication of the related press release will follow the adoption of the Annual Report by the Board.

The Chair gave a brief introduction on the analysis and assessment of the Annual Report 2015 conducted by the Board. He recalled that last year the assessment was done with the representatives of the Member States in the Sub-Committee without timely involving the Commission. For this year, it was clear that it was imperative to allow the Commission involved earlier in the assessment. The assessment took place in the framework of the Sub-Committee's meetings. The conclusion of the analysis confirmed that the Agency's work was remarkable while the structure of the report allowed further certainty concerning financial information, control mechanisms etc. However, it was pointed out that the key achievements part of the report was not clear enough. The Board recommend, among other, that the Agency should focus further in presenting the effects of its work to the EU railway sector and not merely on a list with the tasks achieved. Germany, having read carefully the report and analysis, expressed its agreement both with the report and the assessment report.

The Commission also agreed with the assessment and supported it.

Denmark agreed also with the Germany and underlined the quite satisfactory content of the report and assessment. Nevertheless, it pointed out a weak point in the conclusion and recommendations which concerned the need to enhance the item of cooperation with stakeholders and customers. It was considered that this was not properly drafted and proposed to improve it. Denmark referred also to the fact that the Dutch Presidency addressed the issue of customer satisfaction as a priority.

On the procedure and in line with its comments made on the AAR 2016, Denmark insisted on the fact that the documents were not received on time and, as a result, its contribution aiming to increase the quality of the texts was not possible. It requested that in the future efforts should be made in that sense, as it was almost impossible to go back to the comments by other members and compare them with the main document.

The Annual Report 2015 and its assessment were adopted by the Board with one abstention by Denmark.

7. Implementing Rules of Staff Regulations

The Human Resources Officer explained that four Implementing Rules to the Staff Regulations were submitted for adoption by the Board. They concerned the reclassification for temporary agents and contract agents, part time work and working time.

These rules concerned the related Commission decisions on the same subject and they had to be applied to the Agency by analogy. It was clarified that the rules on part-time work were presented without changes to the Commission decision on the subject matter.

Concerning the reclassification rules, they were based on the model provided by DGHR where some changes were made to adapt them to the Agency's needs. Finally, the rules on working time were also adjusted slightly to the needs of the Agency in terms of core hours. It was also said that the rules on teleworking, conditions of employment for contract staff under the terms of Article 3a were in the

pipeline and planned to be presented to the Board in due time when the drafting and the consultation will be concluded.

In addition to the implementing rules mentioned above, it was explained that the Commission envisaged to present model implementing provisions for Agencies on the following subjects: Learning and Development, Administrative enquiries and procedures (planned for summer 2016), Temporary occupation of management posts, Whistleblowing, Appraisal for managers and advisers, as well as non-permanent staff, teleworking, pension rights.

Regarding the implementing rule on part time, Italy made some useful comments which were taken into account.

Germany wished to have confirmation on whether the comments of the Commission were taken into consideration and if this was the case it would give a positive answer for the decision.

The Head of Resources and Support Unit a.i. clarified all the comments were taken into consideration in the revised document with track changes. It was confirmed all the decisions were matching the ones of the Commission with the only difference in the decision on working time where core hours retained were adjusted to the Agency's needs.

Germany requested to have more details concerning the differences on working time.

The HR Officer replied that the model implementing rule gave the wider framework on the working time hours which was 40 working hours per week, between 7 a.m. and 9 p.m. and not more than 10 hours per day. In the model decision the Commission allowed the agencies to define their core hours, according to procedure of Article 110 of the Staff Regulations, as long as they did not exceed more than half-time work. The core hours in ERA were under the maximum time allowed, i.e. 7.5 hours and they had been defined on the basis of the location, culture and needs of the Agency.

The UK acquiesced that a clear framework and rules on working time were necessary to allow proper staff management, nevertheless, it was pointed out that, nowadays, changing job requirements should allow flexible working hours as well as the possibility to allow people to work from different places, different times of the day, according their both work and private life needs. The risk was that the Agency's proposed rules which seemed rather old-fashioned were not suitable to the modern ways of working. However, it was acknowledged that sometimes it was necessary for an administration to have formalised written rules and that it was difficult to adjust the framework of the wider EU institutions quickly. UK noted some lack of flexibility in the provisions of the rules in relation to the work world which was nowadays more about the use of portable devices, working flexible hours but understood that in some cases reality did not match with the written rules.

The Commission replied that the discussion on this topic had been very long at the level of the EU Institutions and that it had not been concluded yet. It was admitted that public administrations had

always been quite late in adjusting to the modern ways of working and that for a variety of reasons. Firstly, in terms of information confidentiality and data availability in order to allow staff to work from distance. Secondly, a number of staff providing specific services should remain always present at least during some defined hours. Thirdly, in the Commission there were some constraints related to the available tools. It was considered that as long as job tools suitable for teleworking were not enhanced, it was not possible to guarantee major changes in the ways staff could work away from the office. It was mentioned, as an example, the case where an important number of staff had been encouraged to work from home after the Brussels attacks and a number of issues with the connection to the networks were encountered. Therefore, it was concluded that it was not always possible for the EU Institutions to adjust as quickly as the outside world but the necessary steps were taken gradually.

Furthermore, regarding the model decision on core time, the Commission considered the proposed rules as a good solution and compromise balancing the needs of the staff as individuals and the interest of the service so as the Agency could ensure business continuity, for instance regarding the time for meetings.

Italy made a number of comments in the decisions presented with the aim to correct inconsistencies and enhanced legal certainty which were taken into consideration.

The Chair considered that for the four implementing rules the discussion had to be limited to the formal requirements as their provisions had been set by the Commission and relevant EU Institutions' standing working groups. The Board was requested to adopt the rules although it had not much choice and that the decision seemed to be more a formality than a say on the substance. He also considered that the notion of deviation from a model decision or an opt-out was still confusing.

For this reason, the Commission suggested that the ERA could follow the practice of other agencies where the implementing rules to the staff regulations were adopted by written procedure and not during the meetings of the management boards.

The practice was that a planning with the implementing rules was presented with the decisions for adoption by written procedure before the following planned Board meeting. If questions on the content of the implementing rules came up and could not be solved during the written procedure, those rules were discussed in the following Board meeting. This practice could save time during the regular Board meeting of the ERA too.

The Commission considered, indeed, that some of the questions could be quite easily and better clarified during a written procedure than by discussion during the meetings, especially when the Commission had to be consulted on the comments and the revised texts.

The Chair proposed to see how a better planning for such decisions could be organised in the future and explore the suggestion made by the Commission.

The Board adopted unanimously the decisions on reclassification for temporary agents and contract agents, part time work and working time.

8. 4RP transition: Draft Delegation of powers of appointing authority from the Management Board to the Executive Director

The Board was presented with a draft delegation setting out the provisions for the Management Board to delegate the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority empowered to conclude contracts of employment to the Executive Director of European Union Agency for Railways.

The draft delegation presented had been based on the model delegation text provided by the European Commission. It has been adapted to the provisions of the future Agency Regulation which stipulated in Article 51 that the Management Board would be the appointing authority empowered to conclude staff contracts. For this reason the Board, in order for the Executive Director to be able to have the appropriate powers from the first day of the new Agency regulation will be asked to give such delegation.

Depending of the exact date on which the future Agency Regulation will enter into force, the delegation should be adopted either during the first Management Board meeting if the entry into force coincided with the date of the Board meeting or by written procedure on the date of the entry into force of the new Regulation. The final adoption of the delegation was subject to the formal agreement of the Commission.

The Board was informed that the draft delegation was submitted for consultation to the ERA Staff Committee and there was no objection.

The Commission explained that under the current legislative framework the Executive Director was the appointing authority and the person with the power to sign contracts but this will be changed under the future Agency Regulation. It was explained that the reason for that was that current system at the Agencies had to be aligned with one applied at the Commission, where the College of the Commissioners had the role of the appointing authority and these powers were delegated further to the Director-Generals of the Commission Directorate-Generals. These provisions as well as how the rights of acting and the delegation of such rights were set out in detail in the Rules of Procedure of the Commission.

The Commission acknowledged the complexity of the procedure but assured that since the process had been already agreed, it could go fast so that all the approvals will be in place by the entry of force of the future Agency Regulation. DG MOVE will support the Agency in order for the formal Commission decision could be taken by DG HR.

Italy made two comments on the wording of the draft delegation which were taken into consideration in the revised version.

The Board agreed unanimously to empower the Executive Director to submit the draft delegation for the formal Commission's agreement.

9. 4th Railway Package and Shift2Rail Joint Undertaking (S2R) state of play

The Commission recalled that the process for the adoption of both legislative proposals, market and technical pillar, was connected and that the European Parliament wished to have a joint adoption. On the technical pillar it was recalled that an agreement had been already researched. Regarding the status of the market pillar, it was said that two meetings should still take place at the level of the Council working parties and the final trilogue was scheduled on 19 April 2016. The Dutch presidency will have to find an agreement between the Council and the European Parliament as a number of issues were still pending, regarding governance, high-speed lines for which the European Parliament was in favour of an open access, contrary to the position of some Member States (MS), and conflicts of interests issues for infrastructure managers being also railway undertakings. Finally, regarding the PSO (Public Sector Obligations) regulation questions on some exceptions relating to the principle of tendering, on access to rolling stocks were under discussion, as well as some social aspects and concerns about transition periods.

The Commission considered that it could be still possible to find an agreement in April 2016, and called the MS to give flexibility to the Dutch presidency so that a good deal could be reached. In that case, the European Parliament could have a final debate and vote during its plenary session end of April 2016. If a final vote on the technical pillar took place end of April, the entry into force of the technical pillar legislative texts was likely to happen 21 days from the publication date to the Official Journal which would be before the next Board meeting scheduled on 23 June 2016.

Furthermore, it was explained that the Commission had been planning, since September 2015, the adoption of a certain number of delegated and implementing acts in order to allow the Agency to be ready, three years after the entry into force of the technical pillar, and to take up its new tasks relating to vehicle authorisation, safety certifications and approving call for tenders for ERTMS trackside equipment.

The Commission expressed its commitment to prepare on time the necessary delegating and implementing acts had to be adopted and, thus, to ensure the outcome of the procedure which was quite heavy also due to the requirements of the Commission's better regulation principles which entail appropriate stakeholders' consultation, as well as impact assessments on the social, economic and environmental aspects.

Furthermore, the relevant Council committee will have to vote on the implementing acts before their adoption and it will have to be consulted at least twice during the process depending on the subject of the implementing acts. Similarly, the Commission would like to follow the same principle for the delegating acts and consult at least twice an expert group planned to be set up in a joint way with the RISC

committee in order to facilitate its workings. This implied that the RISC Committee, in the future, would have to work in two 'parts', a first part being with the MS and a second where not only MS will be represented but also all the representative bodies, e.g. infrastructure managers, railways undertakings, keepers, notified bodies.

The Commission said that the schedule was quite tight considering that approximately a dozen of acts, delegated and implementing, and some of them would have to be adopted two years after the entry into force of the legislative texts. For that, it expressed its satisfaction with the cooperation between the Agency's Task Force leader and the Commission which could contribute in securing the adoption of all required acts within two years after the entry into force of the technical pillar.

Regarding S2R, the Commission reported that, after the nomination of the Executive Director of S2R Joint Undertaking, the Commission and S2R JU were working actively on the assessment and evaluation of the proposals in the framework of the on-going tender procedures. In addition, the revision of the multiannual work plan was on-going. The good collaboration between the Commission, S2R Joint Undertaking and the Agency was acknowledged and the work accomplished, during the coordination meetings which took place on regular basis, was appreciated. The Commission thanked the Agency, also on behalf of the S2R colleagues, for its strong commitment and active participation in this task.

The Executive Director said that on the 4RP the Dutch Presidency confirmed its determination to maintain the expected schedule, in order to ensure the vote by the end of April 2016 and the entry into force of the legislative texts in June which would mean that the next Board meeting in Valenciennes could be the first meeting of the Management Board. He also confirmed that there were no open items on the technical pillar and the debate was focused only on the market pillar. According to the information from the Dutch Presidency and in close cooperation with the Parliament, the expectations were that the schedule would be respected for an entry into force in June 2016 as per the target plan.

Concerning S2R, the Executive Director informed the Board that the first full Governing Board of the S2R JU took place on 18 March 2016 and that all the associated members were nominated.

As the new S2R JU Executive Director should take office in May 2016, it was agreed that the maximum synergies between ERA and S2R will be exploited, so as ERA should be involved in the S2R JU work planning, masterplan and specifically in the IP2 related to control command and signalling, IP4 on telematics and IP5 on freight.

He announced that ERA should also be actively involved in preparing the calls considering that it is necessary to be launched as quickly as possible, by September 2016. Furthermore, the Agency should be intensely involved in the evaluation of the proposals. In order to organise such cooperation, it was planned that a meeting with the new S2R Executive Director was scheduled where a concrete work plan will be elaborated.

The Chair considered that all information indicated a quite high probability that the following Board meeting planned on 23 June 2016 could be held under the new regulatory framework. He confirmed that the Agency will monitor the decision-making process closely and the Board members will be informed on time.

10. ERA transition towards the 4th Railway Package: consultation on rules of procedure Management Board, Executive Board

The Executive Director recalled that in April 2015 a task force had been put in place at the Agency to prepare the transition to the 4RP. The Agency elaborated a detail planning according to the original schedule for the entry-into-force of the legislative texts which was set on 1st January 2016 –plan baseline 1-. However, following the recent developments in terms of the calendar of the decision-making process in the Council and the Parliament on the technical pillar, the plan had been re-adjusted with a new assumption for an entry-into-force date on 1st June 2016 -plan baseline 2-.

As a consequence the planned activities had been shifted by five months and, in addition, a proper new planning was conceived aiming at keeping as much buffer as possible. Concretely, on the one hand some activities were shifted by up to two months, but on the other hand the Agency made sure that all the activities were kept and completed as soon as possible.

He said that the Agency was working in very close cooperation with the Commission, which aligned its planning to that of ERA's so as all actions were in place for a proper shadow-running in June 2018 and as well as for the final effective transition scheduled in June 2019 or, if an extra year was given for some MS, in June 2020.

Regarding the resources situation, it was stressed that it was very critical considering that it was necessary to increase the number of staff while it was also fundamental to have on board the right skills which would allow beginning the work on the new tasks. He expressed its confidence that the Agency could find the financial support necessary for the ambitions related to the nature of its future tasks.

Furthermore, another key element of the 4PR transition was the strong cooperation with NSAs with which four Memoranda of Understanding were now formally signed i.e. France, Germany, United Kingdom, Hungary and a fifth was about to be signed. Negotiations were progressing with two or three other MS and they would be finalised very soon. The aim was to cover all NSAs if possible before the third quarter this year.

The Executive Director informed the Board he intended to invite all the heads of the NSAs to Valenciennes on the date of the entry-into-force of the legislative texts for a launching event which will be a symbolic

act so as to mark the fact that the transition to the 4RP will be an event to concern not only ERA, but a team comprising NSAs and ERA.

He concluded by highlighting the very tight programme management ahead as indicated also in detailed reports given regularly to the Sub-Committee and the Board.

He recalled that the Agency had already planned to put in place a Steering Committee regarding the 4RP Task Force and its program. He proposed as well that some heads of NSA should be members of the Steering Committee and explained that the intention was to take, in the next couple of weeks, some contacts with possible candidates willing to volunteer in this committee. Among other, the role of the Steering Committee will be to manage efficiently the inter-face between the Agency and NSAs.

The Chair thanked the Executive Director for the update on the 4RP transition plan and he expressed its satisfaction with the establishment of the Task Force, its planned activities and, in particular, for maintaining a proactive stance with the way the baseline 2 of the plan was organised. He confirmed that this was fulfilling the expectations on how the management of the transition should take place.

In line with the planning of the transition to the 4th Railway Package, a draft of the Rules of Procedure of the Management Board and Executive Board of the European Union Agency for Railways were proposed. The first drafts of these Rules were submitted in January 2016 to the Sub-Committee and were also discussed further during its March meeting. After the comments received by 25 February 2016, a second version was drafted and distributed for further consultation.

The documents had been prepared on the basis of an update of the Rules of Procedure of the Administrative Board and the Working Methods of the Sub-Committee. The approach followed was to keep as much as possible the provisions which have worked until today and introduce modifications in order to comply with the new requirements of the future Agency Regulation while using some benchmarking with other EU Agencies.

In addition, changes were introduced with the aim to reflect organisational issues that were addressed during the workings of the Administrative Board and Sub-Committee with a view to improve efficiency and allow for flexibility where appropriate. The main aspects of the Rules of Procedure which were modified following the provisions of the future Agency Regulation were provisions on Composition, Term of office, Voting, Chairmanship, Conflicts of interests and presence during decisions on specific agenda items, Mandate to the Executive Board, Transition etc. The main modifications proposed in order to improve efficiency and flexibility concerned Written procedure, Urgent business Voting by proxy, Notifications of term of office.

Several other minor modifications had been introduced as a result of the above provisions for example the introduction of tellers during a secret vote, agenda structure etc.

Comments from the members on version 02 of the draft Rules of Procedure were requested at the latest by 25 April 2016.

The Sub-Committee Chair reported the discussions during the Sub-Committee meetings on the proposed texts. Regarding the composition of the new Executive Board he highlighted the fact that smaller but widely representative group structures such as the Sub-Committee could function efficiently as they would meet more often and could give a closer scrutiny to administrative issues. The challenge, which was considered to have been successfully addressed during the last years was, on the one hand, to hold the Executive Director and management team accountable for their actions while providing support and assistance when needed.

He pointed out that the Sub-Committee had done this by being smaller than the Board in size but at the same time a quite wide representative group and thus, more flexible than the Board. It was noted that the Executive Board was an even smaller group which will have the possibility to meet more regularly to hold the management team to account and with wider powers that opened a new way forward.

However, there could be a tension having a smaller group while keeping the benefits of the Sub-Committee representing a wider group of interests. Consequently, during the last Sub-Committee meeting the proposal to include a sector representative in the Executive Board was retained.

He continued by acknowledging that the bigger challenge was the global functioning of the Executive Board in terms of how the provisional decisions could be taken. For that, the legislative framework introduced checks and balances, for instance attributing such powers only in certain circumstances. The challenging question was to see how the new rules will work in reality through, perhaps, a testing out period of some months with the possibility to come back to the new Management Board reporting advantages and drawbacks. He stressed that the most important aspect was to have a set of rules ready for day-one so as the Executive Board to be operational immediately.

Railway Industry supported the involvement of the sector in the Executive Board and proposed to add a phrase on the next updated version of the draft Rules of Procedure such as '*sector representatives can be invited as guests to the executive board meetings by the chairperson*'.

The Chair replied that in the version 2 of the draft Rules of Procedure there was already such a provision under Article 6 allowing the participation of the sector in the Executive Board.

France gave its full support to the proposal of a larger participation of the sector representatives in the Executive Board as 'permanent observers'. It was considered that it was not enough to talk about a simple invitation as this was evident even without a specific provision, in the same way the Executive Director was invited regularly in the Board meeting. France stressed the need to include a provision for one or two permanent observers appointed in the Executive Board, in order to improve the involvement of the sector in the Agency's work.

Denmark firstly thanked the Agency for the brilliant work performed and said that it will provide its comments before 25 April 2016 after a careful analysis. It noted that in the opening of the two documents a more clarifying presentation of the interrelationship between the two boards was missing, such as how they will function together and their role.

Denmark wished to know the way the procedure to approve the documents will be finalised, whether it should be a written procedure or whether the documents should be sent with track changes and author, in order to work easily and be able to provide the final results with the comments within the given time. The aim was to complete the work well done as only few comments were expected.

The Chair recalled that due to the uncertainty of the date of the entry into force of the legislative texts the final procedure was not yet confirmed, nevertheless if all the comments were provided by 25 April, they could be consolidated in a transparent way and communicated on time with updated versions.

Germany appreciated the good work done and raised two questions. Firstly, concerning the draft Rules of Procedure in the Management Board, it considered that the mandate to the Executive Board should concern only administrative decisions as other matters should be the duty of the Management board. Secondly, concerning the Executive Board, it proposed that only one proxy by member should be foreseen as there were only six members in the Executive Board and, theoretically, this could entail cases where one member could have 50% of the votes.

The Chair agreed with the comments and with the fact that the Executive Board should deal with budgetary matters as well as the issue of the proxies and that he would take into account the comment while waiting for further comments in writing by 25 April 2016.

Hungary commented on the possibility to include in the composition of Executive Board the option that the alternates for the representative of the Member States were representatives of the stakeholders in the Management Board.

The Chair said that the texts were not providing such possibility but the issue of the alternates in the Executive Board and the presence of the sector representatives could be studied.

Finland said that it was planning to study carefully the drafts while keeping in mind some pragmatic aspects. The focus would be on achieving and maintaining a proper balance between the Management and Executive board powers so that the last one would become a transparent working body supporting the Management Board without becoming independent. Finally, it underlined the importance to discuss the Rules of Procedure in the Management Board before deciding, as for that an adoption by written procedure did not seem the most adequate approach.

The Chair stated that the most reasonable way, indeed, was to deal with the adoption during the first Board meeting after the entry into force of the Agency Regulation, rather than having them decided by

written procedure, since in the process leading up to the decision quite a few comments would still have to be certainly negotiated.

The Commission thanked the Agency for the good preparatory work in the two drafts of the Rules of procedure. Regarding the participation of the sector in the Executive Board, it considered that the proposed provision allowing for sector representatives to participate in the meetings was well written and it constituted a quite balanced solution. The Commission expressed its support to the participation of the sector in the meeting of the Executive Board. Nevertheless, the Commission noted that allowing permanent members could be difficult as the option when discussed, during the meeting of the Council, a clear decision was taken to exclude the possibility for sector representatives to be members of the Executive Board.

France remarked that this was the reason why it proposed the wording 'permanent observers' and not members. The proposal was to appoint one or two representatives which should be present to all Executive Board meetings.

The Chair stated that the issue was open for discussion until a final decision would be taken by the Management Board on the Rules of Procedure so as to find the right formulation. Indeed, a general agreement existed on the fact that the sector contributed in a positive way to meetings and their presence should continue in the Executive Board.

He supported the necessity to establish a balanced solution to allow participation of the sector representative in the Board while respecting the provisions of the future Agency Regulation.

The Chair requested the members to provide comments on the texts by 25 April 2016. Furthermore, he explained that since the Sub-Committee will cease to exist and a new Executive Board will be created with the future Agency Regulation, its members representing the Member States will have to be appointed during the first meeting of the Management Board.

Therefore, Member States representatives were invited to express their interest to become members of the Executive Board so as during the first Management Board meeting four representatives of their Member States and their alternates could be appointed.

11. Languages policy

The Executive Director stressed the complexity and sensitivity of the question regarding a language policy and acknowledged the importance of the discussion on the subject. Firstly, he explained that in line with the requirements following the new Staff Regulations rules, vacancy notices will have to be available in all EU official languages. Such requirement will have as a consequence practical concerns as the Agency would receive and process applications in all 24 EU official languages. Secondly, according to Article 74 of the future Agency Regulation, Regulation n° 1/58 determining the languages to be used by the EU Institutions will apply to the Agency, but the Management Board may decide implementing arrangements

on a specific linguistic regime. At a request of one Board member, such decision shall be taken by unanimity.

Furthermore, he insisted on the fact the Board should have the opportunity to exchange views on the subject before the transition to the new regime under the 4RP for reasons of practicability, efficiency and budget costs.

Finally, the Executive Director pointed out that ensuring clarity, in particular relating to technical matters would mean multiple translations to different languages with consequences on the quality of the terminology. For that, he suggested a reference language to be used for technical matters which should be supported by an extended glossary in all 24 languages. A note had been submitted to the Board describing the context, legal background, and possible solutions on which an exchange of views could take place.

Italy thanked the Agency for the proposal which constituted a good basis of discussion. Three problems were identified, first the use of languages for certification and authorisation of applications, for other documents issued by the Agency and use of languages used during meetings. Regarding the first two cases it supported the Agency's position, to use English as the only possible language, in order to avoid costs and time. Regarding the issue of the languages during technical meetings, it supported the option that this language should be English while for the plenary meetings of NSAs, NIBs or the Board two other languages could be added. For that, it was suggested, as per the exchange of views by letter between the Agency and the Italian Ambassador in Brussels that a solution should be found for the use of languages in the plenary meetings and included in the language policy presented.

Italy proposed that one option would be, to add Italian in the existing 3 languages for plenary meetings interpretation and any other language requested by any MS, an option which would entail high costs. Another option would be to use only English which had low impact on budget. The third option could be a more balanced approach, with English as working language and two other official languages with rotation criteria between the languages needed for each meeting, identified in due time.

Germany thanked the Agency for the proposal and considered that on the point of safety management system the documents should not be translated. Similarly, the requests for vehicle authorisation should be done in the language of the applicant, since they concerned the same principle of technical vocabulary and problems of translation could occur. It pointed out that the issue was more complicated in cases where ERA will be involved in ERTMS tenders and for that it will be necessary to check which procedures and which documents had to be translated. It concluded that the same principle should apply for meetings, so that translations should be avoided where possible since there could be also problems related to technical vocabulary.

Furthermore, Germany wished to know, if tender publications were in English, whether the bidder could submit an offer in the language of its choice or not.

The Executive Director answered affirmatively and explained that Regulation 1/58 had to be respected. The Agency in this case, would reserve the right to follow the process in English but the tenders could be submitted in other EU languages.

France thanked the Executive Director for the almost perfect work done and shared the importance of the comments raised by Germany and Italy, in particular on vehicle authorisation, however, it considered that since there would be in any case exchanges with NSAs, the language agreements on this subject could be part of the cooperation agreements with NSAs. Furthermore, it requested a modification in the proposed policy as requested by the French Ministry of Foreign Affairs, *'due to the Agency location in France, French to be a reference working language'*, with a footnote *'e.g. for administrative purposes, contact with local authorities, procurement for local providers'*.

The Commission noted that it could not take any position on the language issue. Nevertheless, it expressed the view that although the proposal that *'the vacancy notices for call of application in the field of recruitment will be available in English in order to reduce translation costs'* could indeed entail costs reductions, it was against the European Court of Justice (ECJ) ruling brought by Spain and Italy. In line with the rulings when the basic act of the Agency does not provide clearly a specific language regime, then the publication of the vacancy notices had to be done in all the EU official languages. It was, however, underlined that the second phase of the selection procedure could be done in one language similarly as in the procurement field, meaning that the internal working and all the documents provided by the applicants would have to be discussed in English, e.g. proceedings and correspondence. The Commission insisted on the fact that the publication of vacancy notices was a very specific point on which, after the ECJ ruling, the Commission with other institutions were currently discussing the position to take. A number of competitions organised by EPSO (EU Personnel Selection Office) were still blocked for that reason until the position of Commission's legal service was agreed together with those of the Council's and Parliament's. It was pointed out that the EU citizens had the right to read a vacancy notice in any of the EU languages and that constituted a fundamental right. According to the current practice, even if a person applied in another language, and not English, the Commission would accept it and consider the application further. The Commission said that any further developments on the topic will be communicated in due time to the Board members.

Furthermore, the Commission wondered whether the question of languages concerning the specific tasks vehicle authorisation, safety certificates and ERTMS could be settled in the policy presented considering that they would have to be debated first between the Agency, the NSAs and the applicants in order to be fully solved.

For instance, the use of languages in application files or in bilateral contacts between these three actors, the languages of the final papers which will be produced by the system could not be proposed or decided before the discussions were concluded at the level of the technical meetings. Furthermore, the detailed rules to be adopted within the next years were not discussed yet nor, for instance, how the OSS should work.

Therefore, it was suggested that in order to reach a solution which could facilitate the work, an option could be not to deal with all the issues together. A possible way forward would be to decide how to address the use of languages for vacancy notices, internal rules for the work of the Agency, meetings with NSAs and to agree to debate on the use of languages for authorisation or certification issues separately in order to reduce the complexity of the problem.

The Netherlands wondered whether the safety management system documents should not be left open since the use of languages issue could be also mutually agreed allowing also the possibility for another language, for instance English. This approach for some applicants could be preferable and more flexible by not putting the obligation that the application should be in the applicant's language.

Italy agreed with the proposal of the Commission to deal with the issue of use of languages in vehicle authorisation and certification separately as different levels of problems would still have to be faced. It was recalled that the Council did not find a solution and left the decision to be taken by the Board. It then asked which process the Board would agree to allow for comments, revisions etc.

Finland underlined that a pragmatic solution was needed. It supported the idea of working in English within the NSAs and the Agency. However, it was considered that for processing applications from the applicants or when addressing technical issues it would be necessary to be very careful not to externalise the cost of less used languages while keeping the costs for widely used languages within the Agency. Therefore, Finland proposed approaching the language issue step by step, first dealing with vacancy notices and later on with the issue of how to deal with vehicle authorisation and certification, after having analysed all the parts of the process.

France agreed to send written comments and wished that the Commission provides the details of the ECJ judgements on the use of languages. France wondered, in case a linguistic regime on working languages was defined in an agency, what was the logic behind having to publish the vacancies in all EU languages.

The Commission informed the Board that the judgements concerned were T-124/13 Italy vs. Commission T-191/13 Spain vs. Commission dated 21 September 2015.

The Executive Director thanked the Board members for the very constructive contributions and he proposed to integrate the comments and update the position paper with MS positions. He noted that the Agency had to face a slight complication and asymmetry in relation to the recast of the Interoperability Directive which stipulated that the NSAs may request the applications in their own language and the same could be requested also to the Agency, i.e. to use its own language. Therefore, insofar as the Agency would not have its own linguistic regime, it will be complicated to have a consistent approach. For that reason, having a reference language, which was a softer concept than an 'own' language, could be a solution.

The Chair invited the members to send comments on the language policy by the 25th of April. All the comments will be collected, the policy will be updated and put it in the agenda of the next Board in June.

He affirmed as well to be very optimistic about reaching a pragmatic, manageable and cost efficient solution.

12. Information points

The Board took note of the points regarding the provisional accounts, budget execution 2016 and transfers. The Chair explained that the document regarding the KPIs for the Executive Director was already submitted in December 2015 to the Board and that they will be included in the Single Programming Document.

The Chair requested from the Board members who had not submit their CVs and Declarations of Conflict of Interests yet to do so as soon as possible.

13. Meeting dates for 2016

The next Board meeting was scheduled on 23 June 2016 in Valenciennes due to lack of available meeting rooms in Lille.

Members were informed about the possibility that the date of the June meeting could be postponed for some days depending on the date of the entry-into-force of the 4RP technical pillar, members will be informed on time.

The Corporate Management and Evaluation Head of Unit informed the Board that on 23 June 2016, in the evening, a celebration will take place for the entry into force of the 4RP and that the members will receive 'a save-the-date email' shortly.

Italy wondered if there could be interferences with the European football tournament in Lille because of problems of hotels, flights etc.

The Chair confirmed that members should make arrangements on time to avoid inconveniences.

The meeting was closed at 13:00. It was followed by the Workshop on the SPD 2017.