

FORUM FOR EXCHANGE OF INFORMATION ON ENFORCEMENT

Revised

FORUM WORK PROGRAMME

2011 – 2013

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Revision adopted by Forum in written procedure on 30 May 2012

Forum Work Programme

2011-2013

INTRODUCTION

Tasks of the Forum

According to Article 76(1)(f) of Regulation (EC) No 1907/2006 (the "REACH Regulation"), the European Chemicals Agency (ECHA) shall comprise a *Forum for Exchange of Information on Enforcement* (the Forum). The Forum shall coordinate a network of Member States authorities responsible for enforcement of the REACH Regulation and Regulation (EC) No 1272/2008 (the "CLP Regulation"). Article 86 of the REACH Regulation lays down rules on the establishment of the Forum.

Article 77(4) of the REACH Regulation and Article 46 (3) of the CLP Regulation list the tasks of the Forum. The list is included in Article 2 (1) 1 of the Forum Rules of Procedures (ROP):

- a) spreading good practice and highlighting problems at Community level;
- b) proposing, coordinating and evaluating harmonised enforcement projects and joint inspections;
- c) coordinating exchange of inspectors;
- d) identifying enforcement strategies, as well as best practice in enforcement;
- e) developing working methods and tools for use by local inspectors;
- f) developing an electronic information exchange procedure;
- g) liaising with industry, taking particular account of the specific needs of SMEs, and other stakeholders, including relevant international organisations, as necessary;
- h) examining proposals for restrictions with a view to advising on enforceability (task not being relevant under the CLP Regulation).

In addition, the Forum shall work with the following tasks, as described in Articles 2 (2) - (4) of the ROP:

- the Forum shall agree on common issues to be covered in the report indicated in Article 127 of the REACH Regulation
- the Forum may agree to advise on other issues related to enforceability of the REACH Regulation
- the Forum shall establish a work programme in order to plan the execution of its tasks

According to Article 117 (1) of the REACH Regulation, each Member State shall every fifth year report to the Commission (COM) on the operation of

the REACH Regulation, including evaluation and enforcement activities as described in Article 127. Member States have submitted their first report on the operation of the REACH Regulation by 1 June 2010. The next report is due in 2015.

According to Article 46 (2) of the CLP Regulation, Member States shall submit a report to the Agency every 5 years by 1 July on the results of official controls, and other enforcement measures taken. The first report shall be submitted by 20 January 2012.

The Forum Work Programme

The aim of the Forum Work Programme is to cover the tasks as described in the REACH Regulation, the CLP Regulation and the Forum ROPs, structured into work packages suitable to be handled by working groups or otherwise to be covered by the Forum as individual tasks.

The period of time covered by this Work Programme is primarily from 1 January 2011 to 31 December 2013. The Work Programme 2011-2013 also includes specific work plans for some prioritised activities. It comprises two Parts. Part I provides an overview of the tasks covered by individual work packages. Part II consists of a series of Annexes which provide the detailed plans for each of the work packages described.

Revision of the Work Programme

The Forum Work Programme will be revised as necessary by the Forum, at least once a year at plenary meetings. Any changes adopted by the Forum plenary will be included into an updated version of the Work Programme by the Forum Secretariat.

Amendments to the Work Programme might become necessary once new tasks will be allotted to the Forum by other EU legislation.

Forum Work Programme

2011-2013

Part I: Overview

Table 1. Overview of the Forum Work Programme 2011-2013

	Work Package	Basis in Forum ROP ¹	Priority	Working group of the Forum	Activities planning						Status	
					Start	Completion	2011	2012	2013			
A	Forum Coordinated Enforcement Projects											
A1	<u>Coordinated projects and other Forum enforcement projects</u>	Article 2(1)(b), (e), (g)	Very high									Ongoing
	Reach-en-Force 1 (REF1) : Delivery of coordinated enforcement project on registration, pre-registration and SDS			WG ongoing	April 2008	Dec 2011						Done
	PAH project : delivery of Forum enforcement project on PAH in tyres and extender oils				May 2010	June 2012						
	Reach-en-Force 2 (REF2) : Delivery of coordinated enforcement project on obligations of downstream users - formulators of mixtures			WG ongoing	Oct 2010							Ongoing
	Reach-en-Force 3 (REF-3): Definition and delivery of the coordinated enforcement project, including cooperation with customs			WG ongoing								Ongoing
	Horizontal methodology for a harmonised elaboration, management, reporting and evaluation of Forum coordinated enforcement projects			WG ongoing								Ongoing
B	Enforcement of REACH & CLP											

¹ the articles of the rules of Procedure (ROP) of the Forum correspond to the tasks stipulated in REACH and CLP legal texts. The tasks which the Forum shall undertake are indicated in Article 77.4 of the REACH Regulation (Regulation (EC) No 1907/2006) and in article 46.3 of Regulation (EC) No 1272/2008

Work Package	Basis in Forum ROP ¹	Priority	Working group of the Forum	Activities planning					Status			
				Start	Completion	2011	2012	2013				
<u>B 1</u>	<u>Strategies for REACH & CLP enforcement</u>	Art 2(1)(d)	High	WG ongoing	Oct 2010	March 2011						Done
	<ul style="list-style-type: none"> Revised guidance on best practice : strategies for enforcement for REACH and CLP 											Done
	<ul style="list-style-type: none"> Revised document "Minimum criteria for REACH inspections" 											Done
	<ul style="list-style-type: none"> Revised "Criteria for the prioritization of coordinated enforcement projects" 											Done
<u>B 2</u>	<u>Clarification of the interlinks between ECHA, Competent Authorities (CA) and MS enforcing authorities</u>	Art 2(1)(d)	Very High	WG ongoing	May 2008	-						Ongoing
	<ul style="list-style-type: none"> Forum position on interlinks, particularly communication channels and procedures 											Ongoing
	<ul style="list-style-type: none"> Implementation, monitoring and review of information exchange mechanism(s) 											Not started
	<ul style="list-style-type: none"> Pilot project on interlinks for the enforcement of the obligations for ORs and PPORDs 											Ongoing
<u>B 3</u>	<u>Access to information from REACH IT needed by enforcing authorities in MS</u>	Art 2(1)(a),(d),(f)	Very high	WG ongoing	Dec 2007	-						Ongoing

Work Package	Basis in Forum ROP ¹	Priority	Working group of the Forum	Activities planning							Status	
				Start	Completion	2011	2012	2013				
	<ul style="list-style-type: none"> Support the implementation of the REACH Information Portal for Enforcement (RIPE) allowing inspectors access to data from REACH-IT - version 1 				Q3 2009	June 2011						Done
	<ul style="list-style-type: none"> Support implementation of RIPE - version 2 											Ongoing
B 4	<u>Develop an electronic information exchange system (EIES)</u>	Art 2(1)(f)	High	WG ongoing	Dec 2008	-						Ongoing
	<ul style="list-style-type: none"> Identify general functional requirements for the EIES for REACH & CLP enforcement 				Q3 2010	March 2011						Done
	<ul style="list-style-type: none"> Provide support to implementation of the EIES 											Not started
B 5	<u>Guidance document on enforcement methods and enforcement practise</u>	Art 2(1)(d), (e)	Medium		Q2 2010							Ongoing
	<ul style="list-style-type: none"> Gathering experience from coordinated enforcement project REACH-ENFORCE-1 & REACH-ENFORCE-2 and other national initiatives into a document 											Ongoing
B 6	<u>Training programme for inspectors, including exchange of inspectors and joint inspections</u>	Art 2(1)(b),(c), (e)	High		May 2010	-						Ongoing
	<ul style="list-style-type: none"> Training of inspectors on CLP 			WG ended								Done

Work Package	Basis in Forum ROP ¹	Priority	Working group of the Forum	Activities planning						Status	
				Start	Completion	2011		2012			2013
	▪ Exchanges of inspectors										<i>Ongoing</i>
	▪ Training inspectors on enforcement of REACH and CLP Regulations		WG ongoing	March 2011							<i>Ongoing</i>
<u>B 7</u>	<u>Cooperation with the customs authorities</u>	Art 2(1) (g)	Very High		April 2009	-					<i>Ongoing</i>
	▪ Recommendation(s) on the working method for cooperation between customs authorities and other REACH enforcers			WG ended	April 2009	March 2011					<i>Done</i>
<u>B 8</u>	<u>Penalties for non compliance – overview</u>		Medium (Low)		-	-					<i>Not started</i>
<u>B 9</u>	<u>REACH and related legislation – guidance on interactions</u>		Medium		-	-					<i>Not started</i>
	▪ Publication of FAQ for inspectors on inter-relation between REACH/ CLP and related legislation										
<u>B 10</u>	<u>Information exchange / cooperation with other enforcement networks in the EU</u>	Art 2(1) (g)	Medium		Dec 2008 – Apr 2009	-					<i>Ongoing</i>
<u>B 11</u>	<u>Dialogues with international stakeholders</u>	Art 2.(1) (g)	Medium (Low)		-	-					<i>Permanent</i>
<u>B 12</u>	<u>Advice on enforceability of proposals for restriction</u>	Art 2.(1) (h)	Very High	WG ongoing	Sep 2009						<i>Permanent</i>

Work Package	Basis in Forum ROP ¹	Priority	Working group of the Forum	Activities planning								Status
				Start	Completion	2011	2012	2013				
<ul style="list-style-type: none"> 2 Documents : Check-list and guidance for forum advice + Model of forum advice 												Done
<ul style="list-style-type: none"> Revision of the Guide for Forum Advice on the Enforceability of Proposals for Restriction 												On-going
<ul style="list-style-type: none"> Revision of the Forum working procedure to develop Forum advice on enforceability of restriction proposals 												On-going
<ul style="list-style-type: none"> Propose a methodology for recommending analytical methods. After this methodology is elaborated, propose the elaboration of a compendium of recommended analytical methods in liaison with stakeholders and other relevant bodies 												On-going
<ul style="list-style-type: none"> Propose a manual intended to assist the control of compliance with Annex XVII restrictions 												On-going
<ul style="list-style-type: none"> Prepare Forum advice on enforceability of proposals for restrictions within Annex XV & XVII dossiers 												Permanent
C	Forum organisational and general administrative issues											
<u>C1</u>	<u>The Forum Work Programme</u>	Art 2(4)	Very high		Dec 2007	May 2011						Permanent

	Work Package	Basis in Forum ROP ¹	Priority	Working group of the Forum	Activities planning						Status	
					Start	Completion	2011		2012			2013
C2	Communication strategy	-	High									<i>Permanent</i>

Forum Coordinated Enforcement Projects

A1. Coordinated projects and other Forum enforcement projects

Common projects contribute to achieve a harmonised approach to the enforcement of REACH and CLP. Since there is an interaction between other REACH and CLP enforcement activities and coordinated enforcement projects, close contact between them will be necessary. Considering the long planning periods for coordinated projects, the preparation should start as soon as possible to initiate new projects in 2011.

Proposals for common projects have already been made by Forum Members within the previous work programme. These proposals are given beneath alongside with new candidate topics:

- Pre-registration (*in progress*)
- Registration obligations (*in progress*)
- Safety Data Sheets (*in progress*)
- Cooperation with customs authorities (in progress – see work package A1)
- Use of chemicals in the different economic sectors of the industry to raise awareness, e.g. IT, wood processing, and furniture making
- Restrictions of PAHs in tyres (*in progress*)
- Notification under CLP
- Classification and labelling
- Information relevant in the event of emergency health response and inspectors access to information (CLP, art. 45)
- Restrictions
- Substances in articles
- Intermediates (*pilot project in progress*)

The Forum will discuss and prioritise the list of proposals, taking into account its own criteria for prioritisation of enforcement projects which were adopted at Forum-5 (September 2009) and updated at Forum-9 (March 2011).

Projects should include dialogue and contact between enforcement authorities and stakeholders, such as the industry, in particular SMEs and NGOs. Also contact with other enforcement networks on other chemical legislations in the EU can be useful to include in the projects considering experiences and borderline questions between different legislation (see work package B 11).

The practical experience gained from projects will be used to elaborate guidance on enforcement methods and practice foreseen under work package B5.

Priority: Very high

Status:

1st Forum enforcement project: "Pre-registration, registration and SDS for phase-in substances"

This project was executed between April - December 2009 and the results published in August 2010. The project was focused on controlling the pre-registrations for phase-in substances and the presence of the Safety Data Sheets for them. A number of Member States chose to prolong the project to gather more data and raise awareness amongst duty holders. A supplement to the project report will therefore be published at the end of 2011.

2nd Forum enforcement project: "Obligations of Downstream Users - Formulators of mixtures"

This project is focused on controlling the obligations applicable to a specific target group – formulators of mixtures. This includes control whether the substances used are registered by their suppliers and controlling the contents of the Safety Data Sheets and information provided when SDS is not needed. The project will also look into obligations related to access of information to workers and archiving of documentation. In relation to CLP, the inspectors are going to check if the C&L notifications were submitted, where required and whether the required information was collected and maintained. The project also foresees that inspectors will raise awareness regarding the new obligations of Downstream Users with relation to the extended Safety Data Sheet.

The Working Group started work on the manual for this project in January 2010. The manual was adopted at Forum-8 (October 2010). Project implementation takes place in 2011 and 2012. For the preparatory phase, Member States will disseminate the manual and prepare and train their inspectors. The operational phase of the project is planned to start in May 2011 and conclude in March 2012. The reason for such timing of the start of the project is to allow time for suppliers, who will have registered in December 2010 to deliver new safety data sheets and information to their downstream users. The final report is expected in the end of 2012.

3rd Forum enforcement project: "Registration, obligations of Only Representatives and cooperation with customs authorities"

The project subject was adopted at Forum 10 in October 2011 and is focused on enforcing the registration obligations in general, checking that ORs comply with their various duties and elaborating and piloting the cooperation with customs in as many countries as possible. The working

group started to elaborate the manual in Q4 2011 which is currently scheduled to be finalised by Forum-12 in June 2012.

"Horizontal methodology for a harmonised elaboration, management, reporting and evaluation of Forum coordinated enforcement projects"

In order to optimise the management and the evaluation of Forum coordinated enforcement projects, a working group was established at Forum-10 to elaborate a methodology for harmonised elaboration, management and reporting of Forum coordinated enforcement projects.

B. Enforcement of REACH and CLP

B 1. Strategies for REACH and CLP enforcement

As soon as the REACH Regulation entered into force the Forum recognised the necessity of establishing a common general framework which the Member State enforcement authorities could use to prepare their own national enforcement strategies.

In this context, the FORUM adopted three policy documents:

- *Strategies for Enforcement of Regulation (EC) no. 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) in March 2009; and*
- *Minimum Criteria for REACH Inspection in December 2009*
- *Criteria for the prioritization of coordinated enforcement projects*

The enactment of the CLP Regulation introduced additional responsibilities to the Member State enforcement authorities. According to Article 2 of the CLP Regulation the Forum is responsible for coordinating the enforcement of CLP in the Member States.

Priority: High

Status:

In order to fulfil the new responsibilities, at Forum-8, a Working Group was commissioned to review the two documents and to take account of the requirements of the CLP Regulation. The proposals of the Working Group were adopted at Forum-9.

The three documents will be reviewed periodically by the Forum in order to incorporate possible changes to the legislation.

B 2. Clarification of the interlinks between ECHA, Competent Authorities (CA) and MS enforcing authorities

Under Article 126 of the REACH Regulation and Article 46 of the CLP Regulation the responsibility for enforcement lies with the Member States. However, the interlinks and interactions between ECHA, Member State competent authorities (MSCA) and Member State national enforcing authorities (NEAs) need to be clarified.

This work is conducted liaising with CARACAL.

As a part of the WG Interlinks a pilot project will be established to examine in practise the interlinks between ECHA, MS CA and the NEA in relation to the enforcement of ORs and PPORDs.

Priority: Very High

Status:

In 2009, ECHA drafted a “thought starter” on these interlinks. In 2011, this work has been taken forward by the Forum to identify an inventory of communication cases and needs in enforcement of different obligations. The inventory proposes mechanisms for the sharing of information necessary for the effective compliance with REACH and CLP Regulations. It is currently in final stages of development and is expected to be ready in 2012.

B 3. Access to information from REACH-IT needed by enforcing authorities in MS

Information in REACH-IT databases, e.g. on companies and substances, is needed for enforcement purposes for the REACH- and CLP-Regulation. The information limited to each EEA country will be made available to the relevant EEA country inspectorate through RIPE (REACH Information Portal for Enforcement). After a testing phase in early 2011, organisational structures will be established in EEA countries and RIPE will be launched in mid 2011. After the release of RIPE, further amendments and improvements to this first version are already envisaged and Forum will have to support the ECHA IT team in implementation of this follow up version of RIPE which will be able to retrieve and provide most of the relevant data from REACH-IT for each EEA country.

Priority: Very high

Status:

In December 2007, the Forum established a Working Group. Since then, enforcement requirements for data from REACH-IT (REACH and CLP) have been elaborated, a software specification and data model have been defined and the realisation of **REACH Information Portal for Enforcement (RIPE)** began in 2010. The Forum WG has taken an active role in testing and suggesting improvements to RIPE in its development. ECHA has released RIPE 1.0 in June 2011 and provided training to national administrators and national trainers of RIPE users.

Since then the ECHA has worked on further enhancement of the tool in the build-up towards the release of version 1.5. The WG will also participate in user test of version 1.5.

In addition the WG has been consulted on the RIPE related documents which describe the ECHA security recommendations for authorities that host RIPE users. Currently in Q1 2012 the WG is providing input on ECHA guidelines of auditing the compliance with these security recommendations and the functional scope of potential RIPE version 2.0.

B 4. Develop an electronic information exchange system

According to Article 77 (4) (f) of the REACH Regulation, development of an electronic information exchange procedure is the task of the Forum. To reach a comparable and similar quality level of enforcement, both an alert system and a system for other exchange of information between Enforcement Authorities (EA) need to be put in place. The systems should facilitate use by EA employees both between and within MS. The detailed needs of enforcement authorities for the electronic exchange of information shall be compiled (data, functionality). The scope of the EIES shall be related to the needs of inspectors in relation to the enforcement role and tasks foreseen under REACH and CLP. The options for different solutions shall be examined by ECHA who will take a decision on the way of implementation and the scope of EIES. Forum will advise and contribute to the implementation of the software solution for that system.

Priority: High

Status:

During 2008-2010, the Forum defined the basic requirements for an Electronic Information Exchange System (EIES) and a list of data relevant for exchange between inspectors. It also reviewed several existing IT systems and has explored potential synergies with similar IT systems ("ICSMS") envisaged by the European Commission under Article 23 of Regulation 765/2008 (the AMS Regulation) for use by the Member State authorities. The view of the Forum on EIES has been communicated to ECHA for the further assessment of the related IT security needs for such a system. To prepare for a final decision on how to implement an EIES, a Forum Working Group initiated the preparation of a more detailed document on the describing the general functionality needs of inspectors' from an EIES. This task was completed in March 2011.

B 5. Guidance document on enforcement methods and enforcement practice

According to Article 77(4)(d) and (e) of the REACH Regulation and Article 46(3) of the CLP Regulation, the Forum shall undertake tasks to identify best practice in enforcement and to develop working methods and tools of use to local inspectors.

Status:

To reach a harmonised approach to enforcement in the MS, documents on best practice gained during coordinated enforcement projects should be published. These documents should comprise the enforcement of both the REACH and CLP Regulations, and the results and the experiences gained during the Forum's first two harmonized enforcement projects, REACH-EN-FORCE 1 and REACH-EN-FORCE 2. Furthermore, outputs from a possible inspector exchange programme and information from documents describing best practice may be added to create comprehensive manuals on enforcement methods and enforcement practice.

The points raised under the agenda point "practical issues for enforcement" and for which it has been possible to find a conclusion are gathered in the Manual of Conclusions.

During the development of these manuals, language barriers will need to be considered as well as funding. Given their nature, as documents written for inspectors (and possibly registrants alike), the manuals should be short and thus easy to use.

Creating the documents will start as soon as both harmonized enforcement projects are completed and the results are published during the second half of 2012.

Priority: Medium

B 6. Training programme for inspectors, including exchange of inspectors and joint inspections

To reach a comparable and of similar quality level of enforcement of REACH and CLP in the MS, there is a need for equally well-qualified and competent inspectors. There are differing levels of enforcement capabilities throughout the Member States and the numbers of national authorities that enforce different aspects of the REACH and CLP Regulations. To enhance these capabilities and to encourage a common approach to implementing the legal requirements coordinated programmes are necessary. These may lead to the adoption of comparable criteria in enforcement policy and practice. To facilitate this, a

programme, that includes training and coordinating exchange of inspectors and joint inspections, will be developed in 2012.

Priority: High

Status:

Training

Training is required for executing effective enforcement activities. Sharing good training material between MS is one means to increase a harmonised approach to enforcement and avoid unnecessary duplication of work; it may also be useful to develop an overview of the training materials in the MS and any other material prepared by other enforcement networks. New techniques, e.g. *webinars*, should be utilised to conduct efficient learning, where appropriate.

Within this work package training materials and programmes are prepared by the Forum, who then requests financial support from ECHA in the organisation of trainings for trainers. ECHA considers these requests on a case by case and decides, subject to availability of resources, if the training events are to be financed. This practice will continue during the present work programme.

At Forum 4 (April 2009), the Forum has undertaken to prepare materials and syllabus for inspectors in REACH. The training for enforcement trainers was organised in February 2010 with financial support from ECHA. At Forum-7 (May 2010), a Work Group was established to develop a similar training for CLP. The training was organised in January 2011 with financial support from ECHA.

Training-related exchanges can also be arranged, as described below, depending on the willingness of MS that are more advanced in their policy, organisation and practice of inspection/ enforcement for REACH and CLP, to receive inspectors from another MS.

Exchange of inspectors and joint inspections

At Forum-8 (October 2010), the Forum initiated a survey of its members to gather ideas and experience on the topic of "coordinating exchange of inspectors". The overriding benefits foreseen are learning from each other leading to a common approach to enforcement of REACH and CLP and to improve inspection overall. Knowledge about new working methods, best practice on enforcement, agreements on solutions to cross-boundary issues, strengthening capabilities in areas of limited expertise/ resource can all be derived from this activity.

At Forum-9 (March 2011) the ECHA Secretariat has laid out pilot project where Member States could organise exchanges of inspectors which would then be financed by ECHA. ECHA has reserved funds for this activity for 2011. The exchanges would serve to exchange best practice in enforcement of REACH and CLP Regulations. In Q4 2011 arrangements have been finalised for two working visits taking place on January 2012. Maltese inspectors took part in inspection in Italy and Spanish and Lithuanian inspectors took part in inspection activities in the United Kingdom.

B 7. Cooperation with the customs authorities

Cooperation of REACH and CLP enforcement authorities with the customs authorities is very important for handling import control. Practical solutions are needed for such cooperation and, ultimately, involvement of customs in the control of REACH and CLP. To establish such cooperation and find solutions, Forum shall work together with the national customs experts and consult its findings with the Directorate-General for Taxation and Customs Union of the Commission (DG TAXUD).

Priority: Very High

Status:

In May 2008, the Forum agreed that further action is needed in this area. As a first step the Forum decided to send a letter to the Commission kindly requesting that the COM encourages the national customs authorities to cooperate with REACH enforcement authorities. The Forum discussed the possibility to establish a WG for investigating the possibilities and areas for cooperation between customs authorities and REACH enforcers. The Forum agreed that a WG is necessary, but due to the limitation of resources the establishment of the WG was postponed to Forum-4, in April 2009.

The Working Group was established in April 2009, consisting of REACH and customs experts from the Member States. In the course of 2009 and 2010 the WG worked on a recommendation for practical involvement of customs in control of REACH and its proposal was adopted at Forum-9 in March 2011. The output from this Work Package was then taken up by the WG working on a third coordinated enforcement project (A1).

The Forum is currently preparing a third coordinated enforcement project under activity A1, which will include cooperation with customs authorities according to the proposal prepared by the WG under activity B7. The Forum will use this practical experience to review its proposal on cooperation with customs. In the long term it is foreseen that the reviewed proposal will be consulted with DG TAXUD.

The involvement of customs authorities in the enforcement of the CLP Regulation would also enable improvement in the control of imported substances. Control of CLP Regulation by customs will be considered when undertaking any coordinated projects (A1) related to cooperation with customs following the outputs of Work Package B7.

B 8. Penalties for non-compliance – overview

Under Article 126 of the REACH Regulation and Article 47 of the CLP Regulation, each MS shall lay down provisions on penalties applicable for the infringement of the REACH and CLP Regulations. Since this is national issue, the exchange of information on penalties in the MS should aim at categorizing these penalties without striving towards harmonization. Instead, a common understanding about the relevance of certain cases of non-compliance should be promoted. The penalties provided must be effective, proportionate and dissuasive, both for REACH and CLP Regulations.

The process of introducing sanctions for non-compliance of REACH and CLP has already been done in the MS because they had to notify to the Commission their penalties by 1 December 2008 for REACH and by 20 July 2010 for CLP.

Priority: Medium

Status:

There is an existing report on penalties under REACH called “Report on Penalties applicable for infringement of the provisions of the REACH Regulation in the Member States” written by Milieu consultants for COM. In December 2009 the European Commission had presented the Forum with preliminary results of its study of Member State legislation on penalties. The Forum has commented on the findings of the Commission in early 2010. The status-of-play and the practical results of the existing report should be analyzed before further reports are created.

B 9. REACH & CLP and related legislation – guidance on the interaction

Guidance is needed on how the REACH and CLP enforcement is influenced by legislation in other areas, such as waste legislation, occupational safety & health (OSH) legislation and environmental legislation. The examples are the Council Directive 98/24/EC on Chemical Agents Directive (CAD), and the new approach product directives on toys, AMS Regulation, medical devices etc. Like REACH, CAD contains duties relevant to how

substances are used by downstream users, though there are some important differences that may lead to areas of tension but also to synergies between the two legislative regimes. Similar tensions might occur with other legislation, e.g. the cosmetics directive. Many of these regulations have implemented a risk approach/assessment in their obligations on duty holders which could lead to differences in interpretation and follow up.

Some analysis of such legislative interactions might already be available. It will be useful for enforcing authorities to have a summary of what is already concluded, and the Forum could produce an overview and guidance to assist both enforcing authorities and duty holders to achieve compliance. This work package has a close relation with work package B10.

The result of the work concerning legislative points will be shared with CARACAL.

Priority: Medium

Status:

Potential areas for examination within the lifetime of this Work Programme are given at Annex B9.

B 10. Information exchange/cooperation with other EU enforcement networks

Contact with other networks on enforcement of other chemical legislation in the EU can be useful to exchange experiences and to discuss borderline questions between different legislation. Duplication of work could be avoided by considering enforcement experiences from former enforcement cooperation and by using synergies. Specific experiences could be used in connection with the work package on coordinated projects (A 1).

Enforcement networks mentioned are

- The CLEEN network (Chemical Legislation European Enforcement Network) – deals with other legislation on chemicals, biocides, POPs, detergents, fireworks etc
- The SLIC – CHEMEX working group – the SLIC (Senior Labour Inspectors Committee) deals with labour inspection in the field of health and safety at work. CHEMEX Working Group has been established by SLIC to investigate the impact of REACH on labour inspectors
- The RoHS enforcement network deals with enforcement of the RoHS-directive (Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment)
- The IMPEL (European Union Network for the **Implementation and Enforcement of Environmental Law**) deals with environmental legislation
- PEMSAC (Platform of European Market Surveillance Authorities for Cosmetics), dealing with cosmetic products
- Enforcement “network” under **General Product Safety Directive** (PROSAFE), RAPEX
- Accreditation and Market Surveillance Regulation (765/2008/EC) (RAPEX)
- Toy ADCO expert network - included enforcement activities

Consideration is given to invite members of other enforcement networks to participate in Forum working groups, when appropriate.

Priority: Medium

Status:

In May 2008, the Forum agreed on the need for cooperation and exchange of information with the other enforcement networks e.g. SLIC, CLEEN, IMPEL and network for enforcement of ROHS Directive. The SLIC, which has its competence in the field of occupational health and safety, is invited to the Forum plenary meetings on a regular basis and an expert of SLIC-CHEMEX will participate in the elaboration of the Training for Enforcement Trainers to be delivered by the Forum in 2012. The participation of other enforcement networks to the Forum work is welcome and they are invited to participate on a case by case basis.

In the Forum work activities regarding enforcement of REACH & CLP, it is important to keep good contact with other enforcement networks in order to be updated on current practice and exchange information on on-going enforcement activities. In addition the experience from enforcement activities in other networks may be a useful input to elaborate an FAQ with respect to legislative enforcement interactions/implications (see activity B10). The Forum proposes to keep up/maintain a yearly information round with relevant networks.

B 11. Dialogue with international stakeholders

The Forum should develop a dialogue with stakeholders at international level, such as ILO, UNEP, Rotterdam (PIC), Basel (Transboundary Waste) and Stockholm (POPs) Convention Secretariats, and the Secretariat of IFCS and SAICM ².

Priority: Medium

Status:

The Forum has not yet undertaken activities in this work package. The Forum resources have focused mainly on work packages of a high(er) priority. However, the Forum Secretariat provides information on enforcement and Forum issues for ECHA liaisons with international stakeholders and third countries.

B 12. Advice on enforceability of proposals for restrictions

According to Article 77 (4) (h) of the REACH Regulation the task of the Forum is to examine proposals for restrictions with a view to advising on enforceability. From 1 June 2009, Annex XV dossiers with proposals for restriction are submitted to ECHA and the Forum elaborates advice on enforceability of the submitted proposals.

Priority: Very high

Status:

A working group for providing advice on enforceability of restrictions was established at Forum-4 in April 2009 to facilitate the elaboration of the Forum advice on enforceability of restrictions. In the period 2011-2013 the WG will draft the Forum advice on enforceability of restriction proposals submitted to the Agency. The WG participates in the restriction process, together with RAC and SEAC, by providing advice on the enforceability of the restriction proposals. The WG is mandated to facilitate the elaboration of the revised Forum working procedure for developing Forum advice on enforceability of restriction proposals in close cooperation with ECHA. Furthermore, the WG elaborated a guide document for drafting advice on enforceability of restriction proposals and this document will be further revised. The WG will be mandated to propose a methodology for recommending analytical methods. After this methodology is elaborated, the WG will propose the elaboration of a compendium of recommended analytical methods in liaison with stakeholders and other relevant bodies. Furthermore the WG will be

² Strategic Approach for Chemicals management

mandated to propose a manual intended to assist the control of compliance with Annex XVII restrictions

C. Forum organisational and general administrative issues

C1. The Forum Work Programme

According to Article 2(4) of the ROP, the Forum shall establish a Work Programme in order to plan the execution of its tasks. This Work Programme shall cover a time period of three years, i.e. the second Work Programme shall cover the years 2011 - 2013. The Work Programme shall be revised by the Forum plenary as necessary, at least once a year.

Priority: Very high

Status:

The Forum has delegated the task to develop the draft Work Programme for 2011-13 at its eighth meeting (Forum-8) on 12-14 October 2010 to a Working Group (WG) together with the tasks to update a set of other strategic documents of the Forum (e.g. enforcement strategies, minimum criteria for enforcement). A basic focus of this work is on the full inclusion of obligations according to the CLP Regulation as has been proposed by the WG on strategies for CLP enforcement.

C2. Communication strategy

The Forum recognises the importance of clear and consistent communication to effectively undertake its tasks and to communicate its work to its stakeholders, foremost inspectors, ECHA and duty holders; for instance, concerning harmonised European enforcement projects.

To this end, the Forum will strive to embed effective communication into each of its work packages so that the purpose and outcome of its work are broadcast and known to those affected.

The Forum will continue to liaise with industry, taking particular account of the needs of SMEs, through its annual Forum Stakeholder Enforcement Workshops and cooperate with ECHA to identify the most suitable communication approaches to support its work.

No specific work package is allocated to this activity.

Priority: High