

# Forum Work Programme 2019-2023

December 2018

A large, abstract white graphic consisting of several overlapping, curved shapes that resemble stylized petals or leaves, set against a dark blue background. The shapes are positioned in the lower right quadrant of the page.

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## LIST OF ACRONYMS

ADCOs	Administrative Cooperation Groups, sector-specific informal groups of market surveillance authorities
BEF project	BPR-EN-FORCE project
BPR	Biocidal Products Regulation
BPRS	Forum Biocidal Products Regulation Subgroup
CLEEN	Chemicals Legislation European Enforcement Network
CLP	Classification, labelling and packaging
CLP Regulation	Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures
COM	European Commission
DNA	Designated national authorities
EC	European Communities
ECHA	European Chemicals Agency
EEA	European Economic Area
ENES	Exchange Network on Exposure Scenarios
ePIC	ECHA database for information submitted under the PIC Regulation
EU	European Union
Forum	Forum for Exchange of Information on Enforcement
HelpEx	HelpNet Exchange, exchange tool to communicate and to discuss questions among the members of HelpNet
HelpNet	BPR, CLP and REACH Helpdesk Network or Network of national BPR, CLP and REACH helpdesks
ICSMS	Information and Communication System for the pan-European Market Surveillance
IMPEL	European Union Network for the Implementation and Enforcement of Environmental Law
IMP-EG	Expert Group on the Internal Market for Products and its subgroups, Market Surveillance and ICSMS
MOC	Manual of Conclusions of the Forum
MS	Member State
MSCA	Member State competent authority
NEA	National enforcement authority
OR	Only representative
OSH	Occupational safety and health
PAHs	Polycyclic aromatic hydrocarbons
PARCS	Customs network, Expert Group on Customs Action to protect Health, Cultural Heritage, the Environment and Nature
PIC	Prior Informed Consent

PIC Regulation	Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals
PPORD	Product and process orientated research and development
PD-NEA	Portal Dashboard for National Enforcement Authorities
POPs	Persistent organic pollutants
POPs Regulation	Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC
REACH Regulation	Regulation (EC) No 1907/2006 of the European Council and the Parliament of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)
REF project	REACH-EN-FORCE project. They are called REF even if they cover other legislation addressed by the Forum.
Risk-based approach to enforcement	Approach to enforcement, in which national enforcement authorities address those situations that already do or could potentially pose a threat to human health or the environment
SDS	Safety data sheet
SLIC	Senior Labour Inspectorates Committee
SLIC CHEMEX	Working group for Chemical Monitoring of the Senior Labour Inspectors Committee
SME	Micro, small and medium-sized enterprises
WG	Working Group (of the Forum)
WP	Work Programme

## FOREWORD BY THE CHAIR OF THE FORUM AND BPRS

The introduction of directly acting chemicals legislation in the EU started in 2007 when the REACH Regulation entered into force, followed by the CLP, Biocidal Products and PIC Regulations. Now, more than 10 years later, all processes under these regulations have been set up and are in full flow, prompting authorities and stakeholders to look more and more towards proper implementation and enforcement of the legislation. On top of this, the Commission's REACH REFIT evaluation<sup>1</sup> from 2018 puts additional emphasis on enforcement.

The Forum and the national enforcement authorities are at the centre of multiple follow-up processes under REACH, CLP, BPR and PIC. At the same time, they are asked by industry to ensure a level playing field across the participating Member States<sup>2</sup> through enforcement.

In order to meet these aims, the Forum strives to work towards the harmonisation of enforcement through a number of different activities. It endeavors to create not uniform, but comparable enforcement across all participating Member States. It is the Forum's aim to harmonise the approach to enforcement, to conduct common enforcement campaigns, to set standards, provide guidance and thus enable enforcers to have a common understanding of enforcement issues. In light of limited resources, both at Forum and national level, the Forum seeks to provide practical assistance to national enforcement authorities, in the form of training, manuals and project preparation, and also through the setting of priorities.

This work programme serves to channel the Forum's – and often subsequently the national enforcement authorities' – activities and resources in line with ECHA's Strategic Plan 2019-2023. The most visible outputs of the Forum are the REACH-EN-FORCE (REF) and BPR-EN-FORCE (BEF) projects which, through their uniform set-up and EU-wide participation of almost all Member States, directly provide for a level playing field in a certain area of law. However, as this document demonstrates, other activities are just as important for the harmonisation and improvement of enforcement in the Member States.

Over the last few years the tasks of the Forum have grown. It is now responsible not only for the REACH, CLP and PIC Regulations, but also most recently for the Biocidal Products Regulation, for which it created and set up a dedicated subgroup. With the exception of creating the new BPR Subgroup (BPRS), the Forum has managed to handle these tasks with existing resources, building on processes, routines and lessons learnt during more than 10 years of operation.

In the next five years, the Forum is prepared to also take on responsibilities under the POP Regulation as a result of the current recast of that regulation. It will continue its work by completing the activities described in this Work Programme. It will thereby promote the safe use of chemicals, address chemicals of concern and answer the call from the legislators, from its institutional partners and stakeholders to further enhance the harmonisation of enforcement.

Katja vom Hofe  
Chair of the Forum  
October 2018

Eugen Anwander  
Chair of the Forum's BPRS

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<sup>1</sup> [https://ec.europa.eu/growth/sectors/chemicals/reach/review\\_en](https://ec.europa.eu/growth/sectors/chemicals/reach/review_en)

<sup>2</sup> EU/EEA States and Switzerland (for biocides only).

## INTRODUCTION

The Forum for Exchange of Information on Enforcement (Forum) is a well-established body of the European Chemicals Agency (ECHA) consisting of a network of national enforcement authorities with responsibility for the REACH, CLP, PIC and POPs<sup>3</sup> Regulations in the EU/EEA and supported by the ECHA Secretariat. In 2017 the Forum set up the Biocidal Products Regulation Subgroup (BPRS), tasked with the coordination of Member State authorities with a remit for enforcement of the Biocidal Products Regulation (BPR).

The tasks of the Forum and the BPRS are set out in the legal text of the chemicals regulations. Under Article 77(4) of the REACH Regulation, Article 46(3) of the CLP Regulation, Article 18(2) of the PIC Regulation, Article 76(1)(l) of the BPR and Article 8(2) of the upcoming POPs Regulation, the Forum and BPRS are assigned undertakings with the aim to ensure thorough, coordinated and harmonised enforcement of the regulations in all countries within the EU/EEA. In order to continue achieving this aim, the Forum and BPRS set out their priorities for the years 2019-2023 in this work programme. This is the fourth work programme compiled by the Forum. The preceding work programmes established, directed and expanded the work of the Forum, taking account of new tasks such as the addition of coordination of enforcement under the PIC Regulation in 2014.

To practically implement the work envisaged for the period from 2019 to 2023, the Forum and the BPRS will continue to coordinate, conduct and report on EU-wide projects as their main output. These projects, REACH-EN-FORCE (REF), BPR-EN-FORCE (BEF) and pilots, are vital to improve the harmonisation of enforcement activities across Member States. Participating national enforcement authorities are supported by the Forum and BPRS through training carried out by members and the provision of guides and manuals.

The priorities for the Work Programme 2019-2023 are aligned with ECHA's Strategic Plan 2019-2023. The actions related to enforcement communicated in the Commission's 2018 REACH Review<sup>4</sup> report will also be reflected in the Forum's work over the coming five years.

In the 2018 REACH Review report, the Commission highlighted issues relating to enforcement activities which could steer the scope of future activities. One of the issues stressed in the report is ensuring a level playing field between economic operators in and outside the EU regarding imported articles containing substances subject to authorisation and restrictions. The Forum, for example, has tackled the issues of substances in articles and enforcement of authorisation requirements through three previous pilot projects and is building on cooperation with customs authorities in a joint pilot project, and therefore has experience to draw on to direct future enforcement activities focusing on imports.

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<sup>3</sup> At the time of writing of this work programme, the Forum is expected to receive a task under the POPs Regulation in 2019. The activities related to the POPs Regulation will be conducted if the Forum receives the mandate to address the POPs Regulation.

<sup>4</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on Commission General Report on the operation of REACH and review of certain elements: <https://ec.europa.eu/docsroom/documents/28201>.

Actions from the REACH Review related to enforcement:

- Action 12: Interface REACH and OSH legislation: (2) Improve the coordination of national enforcement authorities of REACH and OSH legislation.
- Action 13: Enhance enforcement: (2) ECHA's Forum and Member States are requested to establish comparable parameters on enforcement. On the basis of those parameters, Member States should report annually to ECHA for the purpose of monitoring enforcement activities by Member States.



ECHA's Strategic Plan 2019-2023 also highlights the need for a level playing field fostered through firm and fair enforcement. It emphasises the focus on substances of concern and the need to improve consistency and integration in implementing EU chemicals legislation. The Forum will realise these general objectives in particular through continuing to coordinate projects with participation by all Member States, to promote a harmonised approach and to target priority areas and substances. Cooperation with authorities responsible for other pieces of legislation (e.g. occupational safety and health) will further enhance the opportunities for increased synergies and consistency across the EU regulatory system for chemicals safety.

Regarding substances of concern, the Forum will take account of the final report from the pilot project on substances of very high concern (SVHCs) in articles and as relevant consider the findings for further actions. Both the eighth REF project and the pilot project with customs will address compliance with substances subject to restriction under REACH.

Consultation on the priorities for this Forum work programme – carried out with competent and designated national authorities with responsibilities under the REACH, CLP, PIC and Biocidal Products Regulations, ECHA's Management Board, and Forum and BPRS members – yielded responses favouring conducting projects focusing on internet sales, substances in articles, restrictions and imports under the PIC Regulation. These proposals will be considered by the working group mandated on behalf of the Forum to prioritise future enforcement projects.

The last registration deadline in 2018 also brings fresh challenges to the Forum, as there is now a uniform system in place for all chemicals within the EU. The Commission's report states that the lack of compliant information in registration dossiers obstructs the functioning of some REACH processes and can slow down the achievement of REACH objectives. Although registration obligations have been checked through the Forum's REF-1 and REF-3 projects and will be checked during this work programme in the REF-7 project, the Forum may wish to consider a future project tackling registration dossier quality and dossier updates during the course of this work programme.

The Forum and the BPRS are committed to continuing to spread best practice through the development of tools and documents for inspectors and facilitating the exchange of inspectors across countries. Cooperation with relevant networks and bodies has become an important part of the work of the Forum and the BPRS, and this cooperation and communication will be maintained and enhanced through joint work on projects and sharing of information.

An area specifically mentioned for strengthening in the Commission's REACH Review report and reiterated in ECHA's Strategic Plan 2019-2023 is synergies between REACH and occupational safety and health (OSH) national enforcement authorities. This need for enhanced coordination and cooperation was also mirrored in the responses from the various relevant bodies during consultation on priorities for this work programme. The Forum will work towards ensuring that cooperation between REACH and OSH inspectors is a focus during relevant projects such as the third pilot project on authorisation.

In the upcoming five years, the BPRS will gain experience and routine in its work, especially in the execution of the first BEF projects together with the EU/EEA countries and Switzerland<sup>5</sup>. With the BPRS receiving strong support from the experience available in the well-established Forum, the Forum and BPRS will continue to develop their close cooperation.

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<sup>5</sup> Switzerland is not a member and is not participating in the rest of the activities of the Forum related to REACH, CLP and PIC.

Over the past 10 years of operation, the Forum, and in the latter years the BPRS, have worked towards improving the coordination and harmonisation of enforcement of the REACH, CLP, PIC and Biocidal Products Regulations across the EU and EEA. This work programme sets out the priorities for the Forum and BPRS over the next five years, which ensure that issues requiring further improvement in compliance levels and new challenges are addressed and that national enforcement authorities are supported in their efforts to improve the level of compliance on the EU market.

## PRIORITIES FOR EU ENFORCEMENT 2019-2023

Based on the input of members of the Forum and the BPRS, and considering the feedback from the national enforcement authorities (NEAs), the Member State competent authorities, the ECHA Secretariat and the European Commission, as well as the strategic goals stipulated in ECHA's Strategic Plan 2019-2023 and the recommendations of the 2018 REACH Review, the following major priorities will impact the work during the period of the work programme.

### Cross-cutting priorities

Based on past experience that non-compliance with chemicals legislation is often identified in inspections targeting importers<sup>6</sup>, going forward the enforcement activities and enforcement projects – where relevant – will include a focus on **imports and cooperation with customs**. Thus, cooperation with customs should become a standard part of an enforcement project when checking imports and the related duty holders (importers, only representatives). Placing an emphasis on imports will be a suitable enforcement approach to address changes in responsibilities of market actors, e.g. in the event of the United Kingdom's withdrawal from the EU.

**Internet sales** are a rapidly emerging issue. This also applies to trade of chemicals and articles. Inspection activities of various market surveillance authorities including chemical inspection services are now focusing increasingly on internet sales. These inspections identify high rates of non-compliance of products sold online<sup>7</sup>. Thus enforcement not only has to address provisions with a specific focus on distance selling via the internet (e.g. Article 48 of the CLP Regulation), but in general the products sold online, and the related duty holders should be targeted with compliance checks and adequate enforcement actions. The Forum should strive to harmonise approaches to enforcing regulatory compliance of sales of chemicals via the internet<sup>8</sup>. Internet sales should be addressed both in the context of specific enforcement actions (coordinated enforcement projects and pilot projects focusing on internet sales) as well as in relevant routine inspections of NEAs.

Due to the focus of the EU's chemical legislation on the internal market, a growing number of duty holders based in one country undertake business activities in another country, which requires that NEAs support each other in carrying out enforcement activities. Experience shows that the cooperation of NEAs is often very specific and therefore may be resource-demanding. The Forum and the BPRS will proactively promote and explore ways of effective **cooperation and communication between NEAs in cross-border cases (e.g. through the use of IT tools)**.

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<sup>6</sup> See the reports of the [REF-4](#) and [REF-3](#) projects, which show non-compliance for imported goods.

REF-3: [https://echa.europa.eu/documents/10162/13577/forum\\_report\\_ref3\\_en.pdf/](https://echa.europa.eu/documents/10162/13577/forum_report_ref3_en.pdf/)

REF-4: [https://echa.europa.eu/documents/10162/13577/ref\\_4\\_report\\_en.pdf/](https://echa.europa.eu/documents/10162/13577/ref_4_report_en.pdf/)

<sup>7</sup> See the report for the Forum Pilot Project on CLP focusing on control of internet sale: [https://echa.europa.eu/documents/10162/13577/forum\\_project\\_report\\_on\\_control\\_of\\_internet\\_sales\\_en.pdf](https://echa.europa.eu/documents/10162/13577/forum_project_report_on_control_of_internet_sales_en.pdf).

<sup>8</sup> Considering duties of responsible actors specific for online selling businesses

## Priorities related to the REACH Regulation

The phase-in period for the registration of substances has passed and all substances in the relevant tonnages need to be registered since 2018. Therefore NEAs will continually aim at including **routine checks related to substance registration** (especially for imports) in their routine inspection work. This can also include control of the duty to keep registration dossiers up to date and consistent with market activities and uses by the registrant and its customers.

Based on the substance registration data available to ECHA, a growing number of regulatory risk management measures are being put in place (authorisations, restrictions, safe use information in the supply chain) and it is a strategic goal for ECHA to enhance regulatory risk management activities. In parallel, **enforcement activities** will have to address the obligations emerging from the implementation of new **risk reduction measures**.

## Priorities related to the CLP Regulation

With regard to the experience of enforcement of the CLP Regulation, the **obligations ensuring safe use of chemicals by consumers** require specific attention. Correct hazard communication in line with the CLP Regulation, i.e. proper classification and labelling, is of major importance in order to ensure safe use. This experience is complemented by the findings and recommendations of the Forum's pilot project on child-resistant fastenings. The outcomes from the REF-6 project on CLP duties related to the classification and labelling of mixtures may steer future work on compliance with safe use requirements under CLP.

The **new provisions on information on hazardous mixtures for national appointed bodies and poison centres** according to Annex VIII of the CLP Regulation require major efforts from a very broad number of downstream users (especially formulators) and all importers. A focus of a number of NEAs will therefore be initiating enforcement of these new notification provisions and the relevant duty holders.

## Priorities related to the PIC Regulation

The **inspections of PIC duties are expected to become part of the NEAs' enforcement routine**. Based on the findings and recommendations of the pilot project on the PIC Regulation (which will be available in 2019), the Forum will consider further actions related to the PIC Regulation.

## Priorities related to the Biocidal Products Regulation

The BPRS has already identified the need for an enforcement project focusing on **active substances used in biocidal products**, and the second BPR-EN-FORCE project is scheduled for this priority topic.

As necessary, the BPRS will also tackle **new and emerging issues in relation to the BPR** with pilot project activities.

## Priorities on cooperation

The Forum has years of experience in carrying out **coordinated enforcement projects** and it will continue to run these projects as its major action in order to address the enforcement issues raised for prioritisation within this work programme. In doing so, the Forum and the BPRS are committed to work on enforcement projects jointly, where relevant and possible.

Once applicable, priority areas shall be tackled **proactively in cooperation with other inspection services** competent in the enforcement of legislation related to the REACH, CLP, PIC and Biocidal Products Regulations and their related European networks (e.g. national labour inspections and SLIC CHEMEX; environment inspections and IMPEL; customs and PARCS).

## FORUM ACTIVITIES

### Activity A: EU coordinated enforcement projects

One of the tasks of the Forum is to propose, coordinate and evaluate harmonised enforcement projects and joint inspections (Article 77(4)(b) of REACH). The Forum also has a similar role under the CLP and PIC Regulations (Article 46(3) and Article 18(2) respectively) and there is a corresponding role for the BPRS under the BPR (Article 76(1)(l) of the BPR). Common projects contribute to achieving a harmonised approach to the enforcement of these chemicals regulations. They help to methodologically explore new issues as well as identify areas of high risk of non-compliance based on results from previous projects and screening activities. Most importantly, they set standards for exchanging data between NEAs. The Forum-coordinated projects are known as REACH-EN-FORCE (REF) projects<sup>9</sup>, and those coordinated by the BPRS are known as BPR-EN-FORCE (BEF) projects.

Prior to conducting project activities, an agreed approach is set out to ensure that compliance checks are carried out over the same time period across all participating countries in a uniform manner through the use of a standard question set and explanatory manual. Over the past years, the Forum has developed a method for collating results from projects to allow for processing and reporting on project findings.

In order to ensure that the process of managing projects from planning through to finalisation is carried out efficiently and consistently, the Forum has developed a methodology for the selection, management and evaluation of the harmonised enforcement projects coordinated by the Forum. The REF Project Methodology has been developed and adapted by taking into account the experience gathered from REF and BEF projects and is used by the relevant working groups as detailed in Activity A.1 and Activity A.2.

In addition to the main REF and BEF projects, the Forum and the BPRS may, on an *ad hoc* basis, agree to undertake smaller pilot projects (see Activity A.3). Proposals for subjects for pilot projects are often a result of the prioritisation process (see Activity A.1). As a result, topics for pilot and REF projects are often selected concurrently.

Prioritisation of projects for the period of this work programme will take into account the issues raised by the Commission in their 2018 REACH Review report when proposing and deciding on topics for REF and pilot projects, and will also consider national enforcement priorities through collection of information from NEAs.

As the remit of Forum will extend to cover coordination of enforcement activities under the POPs Regulation during this work programme, the Forum should consider the need for project work in this area during the prioritisation process.

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<sup>9</sup> Although CLP and PIC are included in the scope of the REF projects as appropriate, the Forum will continue to call them REF projects rather than add reference to CLP and PIC, as the acronym REF is well understood.

### Activity A.1: Prioritisation of coordinated enforcement projects

The Forum has an established working group (WG) mandated to propose topics to the Forum and the BPRS for consideration for REF, BEF and pilot projects (Prioritisation WG). The mandate for this WG is available on [ECHA's website](#). The methodology for recommending topics for future projects to the WG and the mechanisms by which the topics are prioritised is now well established by the WG. It formalises the process for the submission, consideration and agreement of topics for REF projects. Consequently, Forum members and stakeholders are aware of when they should submit proposals. The Forum Secretariat can also plan time for discussion into the relevant plenary meeting. The methodology ensures that each new REF project is scoped by the end of each year so that the preparation phase can start the following year.

In summary, the REF Project Methodology foresees that proposing, prioritising and agreeing the scope of REF and BEF projects is done at specific times in the yearly cycle, targeting decisions to specific Forum plenary meetings. Moreover, there should be a REF project operational every year at the same time as a previous and a future project are being completed and planned, respectively. The methodology ensures that over the course of a given year, four different REF projects – each at a different stage of the project cycle – are active: one future project having its topic selected, one project under preparation, one project in the operational phase, and one project in the final reporting phase, and as illustrated in the table below.

	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5
REF a	Proposals and selection	Preparation phase	Operational phase	Reporting and evaluation phase		
REF a+1		Proposals and selection	Preparation phase	Operational phase	Reporting and evaluation phase	
REF a+2			Proposals and selection	Preparation phase	Operational phase	Reporting and evaluation phase
REF a+3				Proposals and selection	Preparation phase	Operational phase
REF a+4					Proposals and selection	Preparation phase

This procedure allows for standardised planning, preparation, monitoring and evaluation of REF and BEF projects. It ensures that the process is transparent and efficient while enabling enforcing authorities and ECHA to plan and resource their activities and to secure engagement from Member State competent authorities, national inspectors and external stakeholders.

Also for coordinated BEF projects the methodology described for REACH, CLP and PIC enforcement applies as indicated above. However, there is one major difference, as BEF projects are currently foreseen to take place one after another, that is a new project will be initiated every third year starting from 2018. Additionally, as relevant, the BPRS may decide to carry out joint REF projects with Forum or pilot projects where applicable for BPR.

As an additional output of the project prioritisation process, the Prioritisation WG also annually prepares a shortlist of potential subjects for pilot enforcement projects. These subjects are usually chosen from subjects that are deemed important but do not fulfil the prioritisation criteria for a REF or BEF project – see Activity A.3 for more details.

The Prioritisation WG recommends the topics for future REF and BEF projects, therefore the information on the forthcoming project should be fed into the Training WG to ensure that any training for trainers events can consider relevant topics. This should however not remove the need for further training of national coordinators.

As noted in the introduction, the Commission's 2018 REACH Review, ECHA's Strategic Plan 2019-2023 and the consultation with ECHA bodies and competent authorities identified a number of potential issues which should be considered for enforcement projects. These topics will be considered by the Prioritisation WG when planning REF, BEF and pilot projects throughout the period of this work programme.

**Basis in Forum Rules of Procedure:** Article 2(1)(b), (e), (g)

**Basis in the legal text:** Article 77(4) of REACH, Article 46(3) of CLP, Article 18(2) of PIC, Article 76(1)(h) and (l) of BPR, Article 8(2) of POPs

### **a. Objectives**

The Forum and the BPRS should continue to support the Prioritisation WG in their efforts to plan future projects by:

- submitting proposals for prioritisation based on the strategic considerations outlined in the introduction to this work programme, current Forum activities as well as national priorities, focusing on a risk-based approach; all proposals should seek to include all Member States and focus on relevant legal provisions.

The Prioritisation WG should:

- consider all proposals and submit recommendations, on an annual basis, to the Forum plenary for a project to be conducted in the following year;
- update a document capturing all proposals made and the scope of all REF and BEF projects undertaken such that the prioritisation of REF and BEF projects follows the standard Forum/BPRS procedure;
- if indicated, revise methodology for prioritising REF and BEF projects;
- update a registry of legal provisions checked under REACH, CLP, PIC and BPR during past projects for transparency of areas covered.

### **b. Main outputs**

- Project proposals are based on areas of concern, are a priority for the Member States, and will allow for a harmonised approach to enforcement of legal provisions requiring safe use of chemicals across the EU.
- A list of all proposals is drawn up for the subject and legal scope of the REF projects on an annual basis and for the scope of BEF projects every three years.



- A recommendation for the subject and legal scope of a REF project is made on an annual basis and for the scope of a BEF project every three years.
- A recommendation for subjects for pilot enforcement projects is made on an annual basis (see Activity A.3).
- A registry of legal obligations covered during previous enforcement projects is kept up to date.
- The methodology for the prioritisation of a REF project is updated where appropriate.

### **Activity A.2: REACH-EN-FORCE and BPR-EN-FORCE projects**

As noted above, REF and BEF projects are one of the key tasks of the Forum. The Forum and the BPRS have agreed a standardised way in which REF and BEF projects will be delivered, as per details described under Activity A.1.

The Forum and the BPRS have roles to play in ensuring a level playing field with regard to enforcement of the REACH, CLP, PIC and Biocidal Products Regulations, therefore the coordination of activities across all Member States plays a major role in harmonising enforcement. It is expected that NEAs in all countries will participate in REF and BEF projects, to work towards the goal of harmonisation. Coordinated projects are also of importance to ensure efficiency of resources, targeting areas and substances of concern and strengthening cooperation with other bodies.

The Commission's 2018 REACH Review report identified a need to improve the coordination of NEAs for REACH and OSH legislation. The Forum must build on relationships formed with the subgroup on chemicals of the Senior Labour Inspectors Committee (SLIC CHEMEX), further enhance and build upon synergies with national labour inspectorates, and ensure cooperation and sharing of knowledge and experience during relevant future projects.

With reference to the priorities outlined under the introduction to this work programme, targeting imported goods, in particular imported articles containing substances subject to authorisation, is a priority for the Forum. Compliance of importers is vital to work towards a level playing field, and therefore enforcement will be directed at these actors through coordinated projects, preferably in close cooperation with customs authorities.

The issue of non-compliant registration dossiers is another area where improvements in compliance levels are required. Specifically, the Commission and ECHA wish to identify why registration dossiers are not being updated and aim to improve the situation. The Forum may wish to contribute to this work through a dedicated project. As the 2018 registration deadline has passed, the Forum will look at compliance with registration through the REF-7 project during this work programme. The conclusions of the REF-7 project may trigger further follow-up actions on compliance with registration duties by the Forum in the coming years.

Additionally, the Forum may wish to consider the recommendation in the final report of the REF-5 project on extended safety data sheets, exposure scenarios, risk management measures and operational conditions, which advise that the Forum could consider focusing on the quality of the information in the extended safety data sheet in a future project. This work could link with ECHA's strategic priority on improving the safe and sustainable use of chemicals by industry, wherein NEAs assist in promoting the use of supply chain communication tools.

Reacting to the high non-compliance rate with CLP provisions noted in the Forum's pilot project on internet sales, respondents to the consultation on the priorities for this work programme indicated a preference for conducting a larger-scale REF project on internet sales. Therefore, the Forum has agreed to conduct a REF-8 project on internet sales in the years 2019-2021, addressing, among other provisions, compliance with restriction conditions under Annex XVII.

As already stated, the BPRS will focus on active substances used in biocidal products under the BEF-2 project.

The timelines for REF and BEF projects for the period of this work programme are shown in Annex 1. The mandates of the WGs working on REF and BEF projects as well as the reports of the completed projects are published on ECHA's website.

**Basis in Forum Rules of Procedure:** Article 2(1)(b), (e), (g)

**Basis in the legal text:** Article 77(4) of REACH, Article 46(3) of CLP, Article 18(2) of PIC, Article 76(1)(h) and (l) of BPR<sup>10</sup>

#### a. Objectives

Through the implementation of the REF and BEF projects, the Forum aims to:

- ensure that the documentation and methodology used is standardised;
- ensure that in any one year there are activities undertaken on four REF projects:
  - prioritisation
  - preparation
  - operation
  - reporting;
- ensure that all Member States participate in working towards greater harmonisation of enforcement;
- provide guidance through the manual and detailed questionnaire, the final report, and the hints and tips guide for inspectors to continue enforcement within their Member States in the future;
- improve consistency in the approach to enforcement across all Member States so that companies experience firm but fair enforcement;
- ensure safe use of chemicals across the EU;
- target importers and improve compliance of imported goods;

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<sup>10</sup> For continuity in naming, all major Forum projects are called REACH-EN-FORCE (REF), even if they will deal with obligations under CLP, PIC or the BPR.

- increase the focus on ensuring that companies update their registration dossiers as required, thereby contributing to the quality of registrations;
- focus on the growing area of internet sales;
- strengthen cooperation and synergies between enforcement authorities nationally and between Member States, in particular between REACH and OSH inspectorates and between NEAs and customs authorities.

#### **b. Main outputs**

- Annual REF project carried out and a BEF project carried out every three years.
- Reports of REF projects completed annually in the time period covered by this work programme.
- A hints and tips guide for inspectors should be drafted by the WG in follow-up to each project, to collect the experiences and practical recommendations regarding enforcement of the legal provisions covered within the project.

#### **Activity A.3: EU pilot enforcement projects**

In addition to the REF and BEF projects (see Activity A.2), pilot projects are organised when:

- the subject is of interest to a smaller number of Member States; or
- the subject focuses on a narrow scope of obligations or a small sample of results; or
- Forum members wish to test different procedures or tools for inspectors.

Topics for these projects will be presented to, and agreed by, the Forum and/or the BPRS. The topics will be shortlisted by the Prioritisation WG on an *ad hoc* basis, and should reflect high-priority issues that arise occasionally either in a Member State (e.g. frequent cases of non-compliance with specific obligations) or in ECHA as it undertakes its duties (e.g. potential compliance issues discovered during ECHA's automatic screening of dossiers). The topics may also arise from discussions in the Forum break-out groups or from new legal obligations, such as authorisation or upcoming notification deadlines under the CLP Regulation. These projects do not need to follow the processes and methodology agreed by the Forum and the BPRS for REF and BEF projects, nor should they necessarily seek the participation of all Member States.

Topics addressed in pilot projects may be relevant for tackling initially on a smaller scale to gauge the extent of the issue before proceeding to a full, wide-scale REF or BEF project. They should also aim to improve Forum and BPRS communications (interlinks) and increase knowledge of compliance issues.

Pilot projects are also useful to scope out new methods of working. The Forum and the BPRS are aware that increased cooperation and enhanced synergies with other authorities are essential for efficient enforcement and achieving compliance. Pilot projects on a small scale will allow bodies to share knowledge and learn how best to work together to achieve a common aim.

An example of a new emerging area for the Forum is the introduction of the coordination of enforcement activities under the POPs Regulation, which may be considered for pilot project work. The Forum has already begun work on improving cooperation with customs authorities through a joint pilot project on CLP and REACH provisions (restrictions). During the period of this work programme, in 2020, the Forum will further advance cooperation with OSH enforcement authorities through a pilot project on authorisation. This will be the third pilot focusing on compliance with authorisation obligations, and will focus on substances with sunset dates that have passed in 2019.

The Forum plans to conduct a pilot project on recovered substances in cooperation with waste enforcement authorities, which will be beneficial in defining the interface between REACH and waste legislation.

**Basis in Forum Rules of Procedure:** Article 2 (1) (b), (e), (g)

**Basis in the legal text:** Article 77 (4) of REACH, Article 46 (3) of CLP, Article 18 (2) of PIC, Article 76 (1) (h) and (l) of BPR, Article 8(2) of POPs

#### **a. Objectives**

- Each project should have clearly defined aims and objectives which should be linked to the strategic aims of the Forum, and should seek to improve the Forum's knowledge and communication processes.
- Projects should focus on a small number of provisions to enable detailed reporting on specific issues of interest.
- These projects should be time-bound and typically have shorter operational phases than REF and BEF projects.

#### **b. Main outputs**

- A report should be written to identify the major findings and lessons learnt, and include a recommendation as to whether the topic should be included in the list of priorities for a full REF or BEF project or be taken into account in other Forum/BPRS activities.
- Where relevant, the responsible WG should draft a hints and tips guide for inspectors based on the experiences gathered during the operational phase of a pilot project.
- Enhanced cooperation with customs authorities through carrying out a joint pilot project.
- Cooperation with waste enforcement authorities through a pilot project on recovered substances.
- Improved synergies with OSH inspectors and the SLIC CHEMEX group, built on during joint inspection activities.

## Activity B: Cooperation

The REACH, CLP, PIC, POPs and Biocidal Products Regulations apply equally to all Member States, and therefore cooperation and communication between enforcement authorities and other actors is required to achieve more harmonised enforcement in all Member States. All Forum activities contribute to this aim, but the cooperation and coordination between authorities is particularly important.

The Forum already has experience with the majority of the activities and tasks included in this section. The activities and tasks are the following:

- REACH, CLP and PIC contain many processes and actors. A proper understanding of who does what and when is key for efficient implementation of these regulations. For this reason, the Forum has put formalised cooperation – known as the ‘interlinks process’ – in place between different authorities (e.g. ECHA, NEAs, MSCAs). In the period of this work programme, this cooperation should be maintained and updated in view of experience from past years.
- The Forum will continue to collaborate with other enforcement networks in charge of enforcement of other related legislation. This helps to strengthen and increase efficiency of enforcement of these regulations in Europe.
- The Forum will continue to liaise with industry and other stakeholders through regular open sessions. It will also consider further joint activities with accredited stakeholder organisations.

### Activity B.1: Cooperation methods between authorities – the interlinks process

In order to ensure that the obligations under the REACH, CLP, PIC and POPs Regulations are enforced, there is a need for close cooperation and information exchange between ECHA, MSCAs and NEAs, especially in relation to regulatory processes foreseen under REACH, where many authorities are involved and effective cooperation among enforcement authorities is essential.

In the past, the Forum has identified different tasks and enforcement-related interlinks between the Commission, ECHA, MSCAs and NEAs in relation to REACH, CLP and PIC in the high-level ‘interlinks inventory’. In 2016, the Forum followed this up by preparing the interlinks guide, which describes specific processes of cooperation between these authorities relating to selected enforcement cases. These cases are mostly related to the enforcement and follow-up of ECHA’s regulatory decisions, such as decisions related to dossier evaluation, PPORD or revocation of registration.

The interlinks guide and the processes have been in operation since 2016 and will need to be reviewed under the present work programme to take into account the experience gained since. For example, some improvements may be needed after the first cases of enforcement of substance evaluation decisions under REACH. In addition, the Forum has increased cooperation with the ECHA Secretariat by investigating various cases of suspected non-compliance identified by the Agency, such as cases related to the duty to avoid animal testing or cases where actual tonnage is higher than the registration tonnage band. Continued cooperation on cases of non-compliance with different provisions under REACH and CLP should be reflected in the review of the interlinks guide.

Moreover, the BPRS may start exploring the interlinks processes related to the BPR once there is a need to address them.

**Basis in Forum Rules of Procedure:** Article (2) 1 (a), (e), (f), Article (16)

**Basis in the legal text:** Article 77(4)(a), (e) of REACH, Article 46(3) of CLP, Article 8(2) of POPs

#### **a. Objectives**

- Good and effective cooperation and communication between the different authorities involved in the implementation of REACH, CLP, PIC and POPs, as well as BPR if needed, forming the basis for effective enforcement.
- In order to achieve the generation of high-quality information for the safe manufacture and use of chemicals, it is important to have a harmonised approach to cooperation and effective communication between the actors involved in the different key processes under the regulations. The Forum will support both ECHA and the Member States during the follow-up of regulatory actions taken by the Agency and in cases of non-compliance with ECHA's decisions. It is important to maintain harmonised working procedures for the most important interlinks involving the enforcement authorities.
- The Forum will fine-tune and consolidate the implementation of the most relevant interlinks procedures by reviewing previous experience. It will also strive to ensure that these procedures are known by the inspectors in order to enhance effective cooperation between all parties involved.
- The Forum will mobilise the NEAs to use information intelligently to identify and address chemicals of concern through targeted enforcement based on information provided on ECHA's dissemination website, information on PD-NEA, or information about non-compliance and in screening reports from ECHA.

#### **b. Main outputs**

- A reviewed interlinks guide describing the processes of cooperation and communication between the actors for the most important interlinks.
- If the BPRS deems it necessary, a description of selected interlinks related to the BPR will be included in the interlinks guide.
- Maintaining routine and well-functioning cooperation on enforcement cases between ECHA, MSCAs and NEAs for the interlinks covered in the interlinks guide.

## **Activity B.2: Information exchange and cooperation with other enforcement authorities and networks**

In the Forum, with regard to work activities regarding enforcement of the regulations, it is important to maintain good communication and cooperation with other relevant enforcement networks to exchange experiences or discuss borderline questions between different pieces of legislation.

Previous Forum projects revealed that many cases of non-compliance were related to imported substances, with only representatives (ORs) particularly at risk of non-compliance with registration duties<sup>11</sup>. Considering this experience, enforcement of REACH and CLP duties related to imports requires cooperation with customs authorities. The control of imports in cooperation with customs is a priority of the Forum, and therefore the Forum will run a dedicated pilot project to test new ways of cooperation that ensure that non-compliant goods do not enter the EU market. The Forum will aim to make the cooperation with customs a routine element of its projects involving control of imports.

In the area of REACH, the cooperation with the SLIC CHEMEX working group that deals with enforcement of occupational safety and health legislation for chemicals is of particular relevance, as REACH and occupational safety and health legislation are complementary. Control of REACH obligations related to the implementation of risk management requires the check of workplace conditions. The latter requires cooperation with inspectors responsible for occupational health and safety legislation. This cooperation will be of growing importance in the next years, when REACH duties related to risk management will be a particular priority of the Forum. In addition, the Forum will be liaising with the ENES network in their work in identifying good practices in preparing and implementing exposure scenarios and developing an effective communication exchange between relevant actors in the supply chain.

The BPRS will explore possibilities in cooperation with relevant bodies and institutions. The Chemicals Legislation European Enforcement Network (CLEEN) has a long history of coordinated enforcement projects on chemicals legislation and until 2017 was dealing with the BPR. In the past, the Forum has sought CLEEN's experience when preparing its first pilot project on internet sales, and reports from CLEEN's projects will remain a valuable source of information for the Forum. In particular, the BPRS may consider the results and experience of CLEEN's BPR enforcement projects when preparing its own activities addressing the BPR.

In order to facilitate effective enforcement of the POPs Regulation and in particular its provisions related to waste, the Forum will also work on tightening the cooperation with MSCAs and NEAs responsible for POPs and NEAs responsible for waste.

Forum will also regularly follow the developments and activities of the ADCOs or any other networks dealing with market surveillance and, when relevant, consider their outputs for use in its own activities.

Additionally, the Forum will follow the activities of IMPEL dealing with environmental legislation, e.g. enforcement of REACH supported by control of environmental permits and by environmental management systems.

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<sup>11</sup> See report of REF-3 project:

[https://echa.europa.eu/documents/10162/13577/ref\\_3\\_report\\_en.pdf](https://echa.europa.eu/documents/10162/13577/ref_3_report_en.pdf)

For *ad hoc* questions on borderline issues under different pieces of legislation requiring clarification, the Forum and the BPRS need to exchange information with official bodies responsible for enforcement of the relevant regulations (e.g. consumer safety network under the General Product Safety Directive, food/feed-related bodies under the food safety legislation, medical and veterinary bodies).

The Forum will also consider cooperation with Enterprise Europe Network<sup>12</sup> (EEN), through the involvement of Forum members in EEN workshops or by inviting the EEN to Forum open sessions. The involvement of the Forum would help EEN to, for example, promote the substitution of dangerous substances by companies, or improve SME compliance (e.g. with SDS related duties). During this work programme there may also be a need to cooperate with the Joint Research Centre (JRC) on the notification of hazardous substances, safety management systems under the Seveso Directive, and analytical methods.

To ensure that cooperation works and communication is open, expert networks may be invited to participate in relevant working groups and in joint projects and workshops planned by the Forum, for example to benefit from their experience with other chemicals legislation. The Forum will also encourage its members to participate and contribute to relevant projects and working groups planned by the other networks.

**Basis in Forum Rules of Procedure:** Article 2(1)(g)

**Basis in the legal text:** Article 77(4)(g) of REACH, Article 46(3) of CLP, Article 18(2) of PIC, Article 76(1)(h) and (l) of BPR, Article 8(2) of POPs

#### a. Objectives

- To strengthen the cooperation, communication and information exchange between networks covering enforcement of chemicals or chemicals-related legislation in order to promote the safe use of chemicals across Europe.
- To strengthen control of REACH and CLP duties for imports through tight cooperation with customs.
- To strengthen the enforcement of REACH duties on risk management through cooperation with labour inspectors, environmental inspectors and Seveso inspectors.
- To facilitate harmonised approaches and understanding of the rules in the regulations and other related legislations.
- To strengthen the involvement of inspectorates in the field of chemicals, especially in those cases where the inspectorates deal with other activities and thus cooperate with partner networks to develop synergies.
- To strengthen control of POPs Regulation duties through tight cooperation with MSCAs and NEAs responsible for POPs and NEAs responsible for waste.

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<sup>12</sup> <https://een.ec.europa.eu/>



## b. Main outputs

- Pilot project on cooperation with customs authorities.
- Involvement of SLIC CHEMEX working group representatives in relevant activities of the Forum, such as the annual training for trainers sessions, and activities related to control of authorisation or other risk management-related duties.
- Regular updates on the activities of other networks at Forum meetings to avoid overlap and ensure that relevant developments are followed.
- Forum representatives nominated for relevant activities of other enforcement authority networks and bodies (e.g. SLIC CHEMEX, ENES, ADCO Chairs, ICSMS subgroup of IMP-EG)
- Whenever the need arises, the Forum will work with relevant networks to elaborate a shared position on enforcement interactions and implications, such as common interpretations of the terms and concepts used in the legislation and potential conflicts or gaps between the regulations. This may involve sharing of any practical issues from the Manual of Conclusions, if agreed with the Forum, on a case-by-case basis.

### Activity B.3: Cooperation with stakeholders

One of the ultimate goals of the Forum and the BPRS is to achieve strong, coordinated and efficient enforcement of REACH, CLP, PIC, POPs and the BPR. The accredited stakeholder organisations (ASOs), whether representing industry or public groups, are also interested in strong and coordinated enforcement which removes cases of non-compliance and targets free-riders.

Because of this shared interest and the statutory duty to liaise with stakeholders, the Forum began cooperation with stakeholders soon after its establishment. Cooperation was initiated as occasional workshops and evolved into annual open sessions with the Forum. The open session is part of the Forum and BPRS plenary meeting where representatives of stakeholders and other observers are invited to participate. During that session, stakeholders are invited to bring forward and discuss matters they find relevant for enforcement. The Forum and the BPRS always respond and address these matters in a coordinated way. The Forum and the BPRS then inform the stakeholders about the developments regarding enforcement, such as results or plans for its coordinated projects or results of national enforcement initiatives.

In addition to the open sessions, other regular interactions with the stakeholder organisations include the circulation of information on Forum agendas, an annual invitation to propose subjects for Forum projects, and communication on the results of the annual prioritisation these projects' subjects (when relevant, this also takes place for BPRS agendas and project prioritisation).

In 2017, the Forum began the first joint initiative between the Forum and ASOs on the improvement of the quality of safety data sheets (SDSs). The initiative aims at collecting common shortcomings in SDSs found by inspectors and working with stakeholders to identify solutions that can be implemented by industry. The results of this initiative will be followed up under the timeline of this work programme and coordinated with the ENES Programme.

Depending on the success of this WG initiative, the Forum will consider engaging in future joint actions, such as ones aimed at improving the implementation of exposure scenarios in

companies.

The Forum and the BPRS will also encourage occasional participation of Forum and BPRS members in workshops organised by ASOs and other meetings and conferences, so as to ensure that stakeholders are well informed on the progress of Forum and BPRS activities.

The Forum and the BPRS and their members will also take part in conferences addressing enforcement of REACH, CLP, PIC and the BPR organised by stakeholder organisations, MSCAs or the European Commission (e.g. the Commission's enforcement conferences in 2012<sup>13</sup> and 2018<sup>14</sup>).

**Basis in Forum Rules of Procedure:** Article 2(1)(g)

**Basis in the legal text:** Article 77(4)(g) of REACH, Article 46(3) of CLP, Article 18(2) of PIC Article 76(1)(h) and (l) of BPR, Article 8(2) of POPs

#### **a. Objectives**

- Accredited stakeholders are informed of the Forum and BPRS activities and are made aware of important decisions, such as the identification of future REF projects, especially through the means of Forum/BPRS open sessions.
- To continue to seek input from ASOs on issues of relevance.

#### **b. Outputs**

- At least one open session of the Forum should be organised per year.
- Solutions to address the common deficiencies in SDSs are implemented by the ASOs and progress is reported on during open sessions.
- Participation in workshops organised by ASOs and in other meetings and conferences in order to enable broad dissemination of information on the progress of Forum and BPRS activities.

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<sup>13</sup> [http://ec.europa.eu/growth/content/conference-reach-clp-enforcement\\_en](http://ec.europa.eu/growth/content/conference-reach-clp-enforcement_en)

<sup>14</sup> [https://ec.europa.eu/growth/content/2nd-conference-reach-clp-and-biocides-enforcement\\_en](https://ec.europa.eu/growth/content/2nd-conference-reach-clp-and-biocides-enforcement_en)

## Activity C: Guidance, training and learning for inspectors

The development of guides for inspectors, the organisation of training programmes, and the exchange of inspectors between Member States contribute to a more harmonised approach for the enforcement of the REACH, CLP, PIC and Biocidal Products Regulations. In addition to the preparation of material and activities for national inspectors, information may also be provided to interested stakeholders such as industry and other enforcement authorities both within the EU and beyond. Thus, enforcement is improved by:

- providing a best practice document on developing enforcement strategies and criteria for inspection;
- providing national inspectors with guideline documents developed by the Forum;
- making information available to stakeholders, enabling them to be aware of their responsibilities under the legislation;
- organising regular training on enforcement aspects of the regulations that Forum considers important for continual improvement of national inspectors knowledge;
- having the possibility to host or send national inspectors from/to other Member States to learn or show how enforcement activities are organised and carried out through inspector exchange programmes.

Examples of Forum-developed guides include the description of enforcement of the PIC Regulation and the Compendium of analytical methods, which are publicly available. A Manual of Conclusions is available to inspectors, containing Q&As on enforcement-related issues. The REF and pilot project manuals are valuable material to inspectors enforcing the same provisions as those tackled during projects.

The Forum and the BPRS will continue to draft guides for inspectors and update the Manual of Conclusions and are committed to training inspectors annually through the training for trainers events. Inspectors will be encouraged to share experiences gained through inspector exchange programmes to promote uptake of the practice.

### Activity C.1: Best practice document

The Forum/BPRS best practice document 'Strategies and minimum criteria for enforcement of Chemical Regulations' presents the Forum/BPRS recommendation for authorities preparing enforcement strategies and developing criteria for inspections. The document addresses all regulations within the scope of the Forum and the BPRS: REACH, CLP, PIC and the BPR.

It was adopted in December 2017 and is a revision of earlier versions originally prepared in 2008 (enforcement strategies) and 2010 (minimum criteria), both revised in 2011.

This document must be reviewed at least once every five years, so it will need to be reviewed in the timespan of this work programme, in 2022 at the latest. The review will address new challenges and findings from the operation of the Forum and the BPRS or the enforcement authorities, as well as new areas of responsibility that may be included in the Forum's remit, such as the introduction of the coordination of enforcement activities under the POPs Regulation.

**Basis in Forum Rules of Procedure:** Article 2(1)(d)

**Basis in the legal text:** Article 77(4)(d) of REACH, Article 46(3) of CLP, Article 18(2) of PIC Article 76(1)(h) and (l) of BPR, Article 8(2) of POPs

#### **a. Objectives**

- The Forum/BPRS best practice document should provide a framework for developing national strategies for provisions set out under REACH, CLP, PIC and the BPR as well as detail the minimum criteria considered necessary for effective enforcement of the legal obligations.
- The best practice document is periodically reviewed and amended in order to cover new issues and any changes that affect the implementation of chemicals legislation.
- The revision will be discussed in a working group or task force set up for the purpose of revision within the timeframe of this work programme.
- As the Forum obtains new responsibilities due to the adoption of new legislation, this will be reflected in the document.

#### **b. Main outputs**

- Revised document 'Strategies and minimum criteria for enforcement of Chemical Regulations'.

### **Activity C.2: Guides and information outputs**

Article 77(4) of REACH mandates the Forum to spread good practice and to highlight problematic issues at Community level. Based on this requirement, the Forum and the BPRS develop working methods and tools for inspectors and identify best practice in enforcement. Practical guides serve as a platform to provide harmonised information for addressing such issues, and they also act as a best practice document for inspectors.

Guidance documents, typically produced by Forum/BPRS working groups, are commented on, revised and agreed by all Forum and BPRS members. One important example is the Manual of Conclusions, which is continually updated by the Forum.

The Manual of Conclusions is a compendium of enforcement issues that have been raised by Forum members, the Commission or the ECHA Secretariat for discussion at a plenary meeting. Alternatively, Forum members or the ECHA Secretariat may submit an issue for discussion through a fast-track procedure using the HelpEx platform. When relevant feedback has been collected and discussed, the Manual of Conclusions is updated with agreed conclusions. The manual serves as a useful tool for avoiding duplication of work and any other unnecessary efforts by Forum members when considering issues similar to those already reflected in the document. The Manual of Conclusions is intended for the use of Forum members, their advisers, Forum observers, national inspectors and the Forum Secretariat. It is also made available to HelpNet to ensure that national helpdesks provide answers which are in line with agreed enforcement practice.

In the period of this work programme, the BPRS will create a Manual of Conclusions specific to BPR issues. The BPRS manual will take on the format of the Forum's Manual of Conclusions, and it is envisaged that it will cover general issues, approval of active substances, authorisation of biocidal products and treated articles. Due to the nature of the Manual of Conclusions, it is a

'live' document and will be continually updated with conclusions following future Forum and BPRS discussions.

During this work programme, the Forum and the BPRS will continue to provide guides and recommendations for inspectors and stakeholders.

Hints and tips documents compiled following completion of coordinated REF and BEF projects are beneficial to national enforcement authorities when carrying out national activities and aid in improving future activities. Each of the working groups in charge of managing a REF, BEF or pilot project will consider preparing such a guide.

Additionally, manuals and questionnaires compiled for enforcement projects (REF and BEF projects and pilot projects) are valuable guidance material for inspectors which can be used for national training and enforcement.

Furthermore, the Forum and the BPRS will develop guides and information to help inspectors in fulfilling their duties, for example, guides on the categorisation of risks in ICSMS, and guides for enforcement of specific REACH Annex XVII restriction entries based on the results of the REF-4 project.

In spreading good practice, sharing of national guides is facilitated by the Forum and the BPRS through the distribution of relevant material on CIRCABC and on PD-NEA.

**Basis in Forum Rules of Procedure:** Article 18(3)

**Basis in the legal text:** Articles 76(1), 77(4) of REACH, Article 46(3) of CLP, Article 18(2) of PIC, Article 76(1)(h) and (l) of BPR, Article 8(2) of POPs

### Objectives

- Continue to develop the Manual of Conclusions on a multi-annual basis as a means to improve enforcement of the REACH, CLP, PIC and POPs Regulations and the BPR throughout EU and EEA Member States;
- Continue to develop practical information for inspectors, particularly on the basis of experience from REF, BEF and pilot projects.
- Develop a guideline on categorising risks for use in ICSMS and links to the RAPEX system.
- Review and revise, as relevant, current Forum guides and information.
- Provision of guides on the enforceability of restrictions to the Committee for Risk Assessment and to dossier submitters (Member States and ECHA)
- Consider contribution to relevant guidance documents developed by other ECHA bodies, for example ENES, and/or external bodies as requested.
- Continue to share relevant guides with other members.

### Main outputs

- Updates to the Manual of Conclusions and their distribution to the relevant parties within a month of the conclusions having been adopted.
- Guides, in the form of tips and hints for inspectors, which collect the practical recommendations about enforcing the obligations of REACH/CLP/PIC/POPs and the BPR covered in REF, BEF and pilot projects, to be developed where required.

- Guideline on categorising risks for use in ICSMS and links to the RAPEX system developed and distributed.
- All existing Forum guides and information reviewed and revised where required.
- Guides on the enforceability of proposed restrictions provided to the Committee for Risk Assessment.
- Other practical harmonised information for inspectors, for example, checklists for inspections, provided as required.

### Activity C.3: Training programme for inspectors

Training is the basis for effective enforcement activities. The Forum/BPRS training programme is aimed at supporting the activities of the enforcement authorities by improving inspectors' knowledge, by raising awareness of the provisions to be enforced, and by sharing information on best practice and methods to be used in monitoring compliance of duty holders with the legal requirements. The training programme and cooperation within the Forum and the BPRS will thus be used as a lever for enforcement activities throughout Member States. Member State resources can be put to more efficient and effective use through coordination and sharing of knowledge and experience, dissemination of best practice, and uniform enforcement activities.

For training for trainers events, topics for training, as discussed and agreed by Forum and BPRS members, will be prepared for annual training events by a working group consisting of Forum and BPRS members and national invited experts and, where relevant, members of relevant bodies such as ECHA's HelpNet and SLIC CHEMEX.

Past experience showed that focusing training on specific provisions to be tackled in upcoming REF projects allowed for efficient use of resources both by ECHA and by national enforcement authorities, and therefore training topics are often chosen based on the scope of future enforcement projects. Training for trainers events enhance the knowledge level of inspectors to enforce the regulations and to develop the necessary tools to transfer this knowledge at national level.

A specific methodology for the identification of relevant training topics and a prioritisation of training needs, which allows the Forum to make actual and *ad hoc* decisions prior to each individual training event, has been established and will continue to be used.

As the Forum and the BPRS wish to enhance cooperation with relevant bodies, other enforcement authorities (e.g. labour and environmental inspectors, customs authorities) will be involved in the preparation of and in conducting future training events.

Technologies to maximise the outreach of the events, such as webinars or web streaming, are and will be continued to be used where appropriate.

Additionally, national coordinators for REF, BEF and pilot projects are trained by the relevant project working group to enable them to conduct the projects in a uniform manner in each participating Member State.

Forum and BPRS training also involves a focus on the use of new methodologies such as IT tools (e.g. ICSMS, PD-NEA).

**Basis in Forum Rules of Procedure:** Article 2(1)(a), (d), (e)

**Basis in the legal text:** Article 77(4)(a), (e) of REACH, Article 46(3) of CLP, Article 18(2) of PIC, Article 76(1)(h) and (l) of BPR, Article 8(2) of POPs

#### **a. Objectives**

- Plan, prepare and deliver trainings for trainers appointed by Member States enforcement authorities for the REACH, CLP, PIC and POPs Regulations and/or the BPR according to identified needs and priorities.
- Spread common understanding of the provisions and good enforcement practice under the REACH, CLP, PIC and POPs Regulations and the BPR, and thus contribute to the implementation of ECHA's Strategic Plan 2019-2023 .
- Compile and share training material between Member States to ensure a harmonised approach to enforcement and to avoid duplication of work.
- Train national coordinators for REF, BEF and pilot projects to ensure harmonised implementation of projects nationally.

#### **b. Main outputs**

- One training session per year conducted for trainers on the enforcement of the REACH, CLP, PIC and POPs Regulations and the BPR.
- Documents, presentations and case studies for the training.
- A summary report compiled and an evaluation of the success of both the training session and the take-up of training at national level (number of inspectors trained).
- Training materials, such as the documents, presentations and case studies mentioned above, distributed to participants of the training event, and separately to Forum members, via CIRCABC.
- Training rolled out to inspectors on new IT systems/methodologies and/or on updates to systems/methods as required.

### Activity C.4: Exchange of inspectors

To reach a comparable and similar level of quality in the enforcement of the REACH, CLP and PIC Regulations and the BPR in the Member States, well-qualified, experienced and competent inspectors are necessary.

To encourage a common approach to enforcement of the legal requirements of the regulations, exchange of inspectors between Member States is highly beneficial, as has been shown from past exchange programmes involving NEAs. The objective of such exchanges is to enhance enforcement actions by strengthening cooperation between NEAs and to share best practice and knowledge between the participating bodies in different Member States.

Knowledge about new working methods, best practice in enforcement, agreements on solutions to cross-boundary issues, and strengthening capabilities in areas of limited expertise/resources can all be derived from this activity.

Funding is an important element required to achieve a successful exchange of inspectors programme between Member States. In the past, both ECHA and DG GROW have offered financing for inspector exchanges, with positive outcomes. The LIFE+ programme<sup>15</sup> provides an opportunity for authorities to avail of funding for such exchanges.

In follow-up to the first programme, DG GROW intends to organise a second inspector exchange programme to be run in 2019.

Continuation of exchanges will be encouraged by the Forum during the period of this work programme, and information on funding opportunities will be made known to members. It is expected that Member States contribute financially to such activities (e.g. by supporting their inspectors to visit other countries, by hosting inspectors from other countries). It is foreseen that BPRS will consider exchange of inspectors where facilitated during this work programme. Those that participated in exchanges will be encouraged to share their experiences with the Forum and the BPRS in order to further promote the programme.

**Basis in Forum Rules of Procedure:** Article 2(1)(c)

**Basis in the legal text:** Article 77(4) of REACH, Article 46(3) of CLP, Article 18(2) of PIC, Article 76(1)(h) and (l) of BPR

#### a. Objectives

- Encourage uptake of the exchange of inspectors in order to spread knowledge about new working methods and best practice in enforcement, and to facilitate cooperation in cross-boundary enforcement cases.
- Share the outcomes/findings from exchanges conducted.

#### b. Main outputs

- Member States organise exchanges of inspectors and share the knowledge gathered from organised exchanges.

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<sup>15</sup> LIFE+ is the EU's financial instrument supporting environmental and nature conservation projects, and there is an annual call for proposals.



## Activity D: Electronic information exchange tools

During the course of their work, enforcement authorities need access to the data contained in the IT systems developed and administered by ECHA in order to exchange information electronically with each other and with the Agency. ECHA hosts several IT systems that are required to properly manage the information required under REACH, CLP, PIC and the BPR. ECHA developed an application for enforcement authorities, the Portal Dashboard for National Enforcement Authorities (PD-NEA), to provide inspectors with access to information submitted to ECHA by companies (containing, for example, REACH registration information and CLP information). This way, enforcement authorities can have quick access to the updated data, facilitating their daily work (e.g. in the course of targeted investigations). Similarly, inspectors have access to data collected under the PIC Regulation in the ePIC application. During this work programme, a tool will be prepared that will offer inspectors access to information collected by ECHA under the BPR.

In addition, enforcement authorities need to exchange information with other national authorities and/or with enforcement authorities from other Member States. For example, it is not uncommon that inspectors carrying out an investigation need to liaise with authorities in other countries to check certain aspects. In order to facilitate this exchange of information, the Forum and the BPRS agreed that the default system for communication between inspectors will be ICSMS<sup>16</sup>, the European Commission's electronic information exchange system for authorities conducting market surveillance. Inspectors will use it to exchange information on and refer cases related to non-compliant products available in the EU market.

### Activity D.1: Access to information administered by ECHA

Access to information from REACH-IT and other ECHA IT systems and databases, e.g. on companies and substances, is important for the enforcement of the REACH, CLP and PIC Regulations and the BPR. By using this information to identify cases of non-compliance, NEAs support the third strategic objective of ECHA, area of operation 2, 'Use of data, information and knowledge on safe use of chemicals'.

#### D.1.1. Access to data from REACH-IT and IUCLID (PD-NEA: Portal Dashboard for National Enforcement Authorities)

Most of the relevant REACH and CLP data are made available to the appropriate national inspectorates through the Portal Dashboard for National Enforcement Authorities (PD-NEA)<sup>17</sup>. The Forum will continue to support ECHA in the continuous development of PD-NEA by testing the system for its practicality and by suggesting improvements. A dedicated working group set up to take on these tasks will continue to play an active role in supporting the further development of the new tool – e.g. searchable access to applications for authorisation, Article 66 notifications, Article 38 reports and SiA notifications for REACH. This will comprise of input for the specification of the PD-NEA, as well as the subsequent user acceptance testing for new releases.

The Forum will further evaluate the functional scope of the database against the practical needs of inspectors in the field. When enforcing the duties under REACH and CLP, NEAs rely fully on

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<sup>16</sup> ICSMS is the internet-supported information and communication system for the pan-European market surveillance.

<sup>17</sup> In early 2016, the PD-NEA superseded RIPE (REACH Information Portal for Enforcement), the previous ECHA IT system for NEAs.

the up-to-date information provided through PD-NEA. Therefore it is the Forum's task to channel the needs and practical requests of inspectors with regard to the development of PD-NEA to the ECHA Secretariat.

The Forum uses the PD-NEA as the tool for handling the interlinks process (Activity B2), and also for communicating any cases of potential non-compliance identified by the ECHA Secretariat.

#### **D.1.2. Access to ePIC**

With the entry into operation of the PIC Regulation in 2014, the Forum set up access to ECHA's ePIC tool to see all the relevant information on PIC submitted to ECHA.

The Forum does not plan any further work on ePIC, with the expectation that any relevant updates to ePIC introduced for the designated national authorities will also indirectly benefit the enforcement authorities.

#### **D.1.3 Access to information from R4BP3 and IUCLID (PD-NEA: Portal Dashboard for National Enforcement Authorities)**

Access to biocides data held at ECHA is crucial for the NEAs responsible for enforcement of the BPR. At present the data are available to inspectors only through the MSCAs. Effective enforcement of the BPR is possible only if BPR inspectors can access data directly. The BPRS will have assessed the suitability of the ECHA Dissemination Portal for the needs of BPR inspectors in 2018. Depending on the outcome of that analysis, ECHA will decide whether to develop a dedicated BPR module of Interact Portal that already serves the REACH/CLP inspectors. If so decided, the development of such new BPR module will start in 2019.

The BPRS has already defined the specification of requirements for the tool for BPR inspectors during the timespan of the previous Forum work programme. If ECHA decides to implement such a tool, the BPRS will support the ECHA Secretariat by testing the system and by suggesting improvements.

#### **D.1.4. Other tools**

The Forum will explore the duties related to the notification of mixtures for poison centres according to Annex VIII to CLP and identify if and what information the inspectors require to enforce these obligations.

These requirements will be provided to the ECHA Secretariat, which will consider if and how to address them in the context of ECHA's Poison Centres Notification Portal. The Forum will consider whether and how the portal is relevant to inspectors and, if needed, will support the ECHA Secretariat in any adjustments to it.

The Forum will also be invited to provide feedback on the content of the Member State report to be submitted to ECHA under Article 13 of the POPs Regulation and also on whether NEAs need access to data from that report.

**Basis in Forum Rules of Procedure:** Article 2(1)(e), (f)

**Basis in the legal text:** Article 77(4)(e), (f) of REACH, Articles 18(2), 6(1)(a) of PIC, Article 76(1)(h) and (l) of BPR, Article 8(2) of POPs

### a. Objectives

- Support the access to information from REACH-IT and IUCLID and other submission tools for enforcers by supporting the continuous development and implementation of the PD-NEA.
- Support ECHA in continuous development of access for enforcers to the PIC database ePIC.
- Support the access to information from R4BP3 and IUCLID for BPR enforcers by supporting ECHA in the preparation, development and implementation of the BPR module of PD-NEA (to be developed in 2019) and of other ECHA tools available to inspectors.

### b. Main outputs

- If needed, recommendations for adjustments in the implementation of the PD-NEA, including the BPR module and ePIC.
- User acceptance tests for the major new releases of the PD-NEA and recommendations for improvements based on the testing sessions.
- Requirements for information necessary to enforce the requirements of Annex VIII to CLP.

## Activity D.2: Electronic information exchange system (ICSMS)

According to Article 77(4)(f) of the REACH Regulation, the development of an electronic information exchange procedure is a task of the Forum. The NEAs need an electronic information exchange system for easy and secure communication between each other.

The Forum and the BPRS chose to use the Commission-owned ICSMS<sup>18</sup> system for exchanging information on cases of non-compliance between inspectors. The Commission has released customised product information forms for exchanging cases related to breaches of REACH, CLP and PIC during the last Forum work programme, and therefore the Forum is not planning further actions related to ICSMS for these three regulations.

In 2017, the BPRS chose to use the generic features of ICSMS for exchanging cases of breaches of BPR between inspectors for the coming years. Should the BPRS decide that it is necessary to request the Commission for a customised form for BPR cases<sup>19</sup>, it will develop a specification for such a BPR product information form. If the Commission decides to develop such form, the BPRS will support it as necessary through testing and suggesting improvements and training BPR inspectors in its use.

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<sup>18</sup> ICSMS is the internet-supported information and communication system for the pan-European market surveillance.

<sup>19</sup> The legislation-specific forms in ICSMS are referred to as Directive Related Product Information (DRPI).

**Basis in Forum Rules of Procedure:** Articles 2(1)(a), (e), (f)

**Basis in the legal text:** Article 77(4)(f) of REACH, Article 46(3) of CLP, Article 18(2) of PIC, Article 76(1)(h) and (l) of BPR

**a. Objectives**

- The Forum and the BPRS will strengthen the exchange of information and coordination between enforcement authorities in different Member States by supporting the continued development, implementation and use of ICSMS.

**b. Main outputs**

- If necessary, requirements for a BPR product information form for ICSMS.
- If necessary, contribution to the development of a BPR form for ICSMS by the Commission through testing and giving feedback on needs and improvements.
- If possible, training for BPR inspectors.
- If necessary, contribute to the maintenance and improvement of ICSMS for REACH, CLP and PIC. Contribute to the ICSMS meetings organised under the umbrella of the market surveillance regulation.

## Activity E: Expertise on enforceability of regulatory measures

The Forum is required to highlight problems at Community level. Enforcement authorities have the closest view of the market and they have the powers to remediate cases of non-compliance. While carrying out their work, inspectors may be confronted with situations where the enforceability of certain requirements of regulations is a challenge. These issues are typically brought to the attention of the Forum and discussed in the plenary Forum meetings.

However, in the case of new proposals for restrictions, REACH requires the Forum to examine restriction proposals and provide *ex ante* advice on enforceability. Therefore, in this particular case, the Forum has the opportunity to provide their opinion on enforceability of the restriction for consideration before ECHA's Committees provide their final opinion to the Commission to modify Annex XVII to REACH. Since the beginning of the Forum, a working group was set up to carry out this task, and therefore the Forum has accumulated significant experience in providing enforceability advice.

The working group has provided advice on the enforceability of numerous restrictions proposals since 2008, and developed and revised a detailed procedure on how to assess enforceability and cooperate with other ECHA bodies. The Forum has also been tasked with compiling a methodology for recommending analytical methods for enforcing restrictions, an area which is key to determining compliance with Annex XVII requirements. Exchange of information among enforcement authorities in this area (e.g. good practice, techniques used) will make enforcement more efficient and effective in Europe.

Forum and BPRS expertise on enforcement of REACH, CLP, PIC and the BPR makes them suitable bodies for assessing enforceability of other regulatory measures. Therefore, if need arises, the Forum or the BPRS will also provide advice on other proposed measures, in particular the standard conditions for authorisation decisions.

### Activity E.1: Restrictions and analytical methods

The Forum examines new restriction proposals (Annex XV proposals) and provides the Committee for Risk Assessment (RAC) and the Committee for Socio-economic Assessment (SEAC) with advice on enforceability. The expected number of restriction proposals will be approximately eight per year in the period 2019-2023.

The dedicated Forum 'Enforceability of restrictions' Working Group nominates a member of the group to lead the advice process for each restriction proposal, in accordance with the Forum working procedure for developing Forum advice on enforceability of the Annex XV proposals for restrictions. The working group reports the results of its findings and its actions to the Forum between the plenary meetings.

During the previous work programme, the tasks of the working group were extended and experts on analytical methods joined the group and elaborated a compendium of recommended analytical methods and a best practice document for the enforcement of Annex XVII restrictions. The extended working group has also made contributions to the ECHA project 'Friendlier reading of Annex XVII' restrictions. The compendium of analytical methods will need to be updated and expanded taking into account new restriction entries.

The working group will start the assessment of the enforceability of the new restriction entries that were added to Annex XVII to REACH since 2010. It is intended to be a 'reality check' for enforcers of restrictions, to establish whether there are any challenges with enforceability of the new restriction entries. It will also allow the working group to see to what extent its advice had been implemented in the final opinion. Any issues that are discovered will be recorded in a

registry of concerns that is intended for sharing with the Commission, ECHA and MSCAs.

In addition, the working group will continue to assess the outcome of the Forum advice and to explore ways to improve the efficiency and effectiveness of the advice process. If it is required, based on the continuous assessment of the working group's work, the working group will also update the Working Procedure of the Forum for the elaboration of Forum advice and support to RAC and SEAC on enforceability of Annex XV restriction proposals.

**Basis in Forum Rules of Procedure:** Article 2(1)(h)

**Basis in the legal text:** Article 77(4)(h) of REACH, Article 18(2) of PIC

#### **a. Objectives**

- Examine all Annex XV restriction proposals in conformity with the REACH requirements and prepare advice on their enforceability according to the Working Procedure of the Forum, for the elaboration of Forum advice and support to RAC and SEAC on enforceability of Annex XV restriction proposals.
- Assess the enforceability of final new restriction entries adopted under REACH to identify if there are any challenges with their enforcement.
- Review and update the compendium of recommended analytical methods.

#### **b. Main outputs**

- Advice on Annex XV restriction proposals (approximately eight dossiers per year)
- If needed, amended Working Procedure of the Forum for the elaboration of Forum advice and support to RAC and SEAC on enforceability of Annex XV restriction proposals.
- Updated compendium of recommended analytical methods.
- If required, further develop the practical guide on enforcement of restrictions produced on the basis of the REF-4 project.

### **Activity E2: Enforceability of other regulatory measures**

In addition to the work that the Forum carries out on the enforceability of restrictions, ECHA and the Commission have initiated consultations with the Forum regarding its views on the enforceability of other REACH and CLP duties.

The Forum has been requested to provide advice on the enforceability of:

- 1) authorisation decisions (i.e. enforceability of conditions of authorisation);
- 2) dossier and substance evaluation decisions, through a dedicated interlinks process;
- 3) enforceability of the interplay between REACH and OSH legislation when addressed in coordinated REACH/OSH inspections;
- 4) common understanding of control activities used in Article 117 reporting.

Therefore, a concrete approach and a simple general procedure to follow should be established,

in order to proceed smoothly when a new request is received.

Within the framework of Action 13(1) of the recent REACH Review Communication, the Commission will consider by Q1 2019 further measures (such as recommendations, guidance documents, training and pilot projects), in order to enhance the role of REACH enforcement authorities. These measures may complement the current and future requests to the Forum on enforceability of other regulatory duties.

Action 12(2) of the REACH Review Communication, on the REACH-OSH interface, highlights the need for strengthening enforcement of the obligations on all relevant actors, (i.e. registrants, downstream users and importers), which is necessary to ensure a level playing field, to meet the objectives of REACH, and to ensure consistency with the actions envisaged to improve environmental compliance and governance. The Forum will support the Commission in implementing this action.

**Basis in Forum Rules of Procedure:** Article 2(1)(d) and (e)

**Basis in the legal text:** Article 77 (4)(d) and (e) of REACH

#### **a. Objectives**

- React to requests from ECHA and the Commission on enforceability aspects not related to Activity E1.
- In line with Activity B2, consider collaborative action, cooperation and advice together with other enforcement networks, where relevant (e.g. SLIC CHEMEX).

#### **b. Main outputs**

- A general procedure for the Forum for handling requests for advice on enforceability of other regulatory measures produced.
- Advice provided on enforceability of other regulatory measures based on request.
- Suggestions provided to improve the REACH regulation to make it easier and more efficient to be enforced.
- An overview of existing cooperation between REACH and OSH enforcement authorities provided to the Commission to support the implementation of Action 12 of the REACH Review.

## Activity F: Reporting on enforcement

Strengthening the enforcement of REACH, CLP, PIC and the BPR among all actors is necessary to ensure a level playing field, meet the objectives of the regulations and ensure consistency with the actions envisaged for the Forum and the BPRS.

Having up-to-date knowledge about the implementation of legislation is key to having a correct assessment of the needs required and eventually for considering changes in order to improve legislation. For this reason, Member States regularly report to the Commission on the implementation of these regulations.

However, up-to-date knowledge of national implementation and enforcement is important not only for the Commission, but also for the enforcement authorities and the Forum itself. An overview of enforcement findings in the Member States will further facilitate the prioritisation of Forum projects and make it easier for them to address the issues found at the national level. Moreover, it may also help the Forum and the NEAs to communicate about the scope and breadth of enforcement.

For this reason, the Forum will put in place a mechanism for annual reporting on enforcement based on the obligatory reports on the implementation of REACH, CLP, PIC and the BPR that the Member States are required to submit to the Commission. The aim of this activity is to create synergies between the different reporting obligations in order to allow Member States to use their resources for reporting purposes efficiently.

### Activity F.1: Structured and quantitative reporting

Member States currently submit a report every five years to the Commission in accordance with Article 117(1) of REACH, Article 46(2) of CLP, Article 22(1) of PIC and Article 65 (3) of BPR, also on the results of Forum activities. Based on this data, the Commission prepares its own reports on the operation of these regulations. These subsequent reports from the Commission can then be used to identify priorities for the Forum, in particular when preparing and reviewing Forum work programmes.

The Commission's 2018 REACH Review Communication<sup>20</sup> includes in its Action 13 on enforcement enhancement the request to ECHA's Forum and Member States to establish comparable parameters on enforcement, based on which Member States should report annually to ECHA for monitoring enforcement activities.

In order to fulfil this Action 13(2) recommended within the REACH Review, a dedicated Forum working group will explore a feasible approach to organising annual reporting of Member State enforcement activities. A holistic overview of enforcement actions in all Member States will benefit the Forum in prioritising projects and activities. For example, information on compliance checks of REACH Annex XVII restriction entries and resulting non-compliance levels would help with planning the Forum's enforcement activities related to restrictions.

The Forum working group will look at the information required from Member States, which will be useful for planning Forum activities taking into consideration the current reporting

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<sup>20</sup> [https://ec.europa.eu/growth/sectors/chemicals/reach/review\\_en](https://ec.europa.eu/growth/sectors/chemicals/reach/review_en)



requirements for enforcement activities under Article 117 and Article 46 of the REACH and CLP Regulations respectively. Based on the working group's assessment, the Forum will prepare and agree on an annual reporting template to collect data on enforcement activities. The annual reporting data should be simple enough to be easily reported by Member States as well as processed and analysed by the Forum every year. It is envisaged that initially the annual report will be piloted for one or two years and adjusted based on the outcome of this pilot phase. In that time, the Forum may wish to explore if and how the reported information can be used for other purposes, such as informing the public about the extent and scale of enforcement ongoing at national level.

Information collected through REF projects and other reports identified in this activity will be beneficial for the programming of future Forum work programmes. Furthermore, information provided by Forum members on enforcement priorities in their Member States can provide a basis for deriving policy objectives and ensuring that enforcement priorities from all countries are considered.

The Forum and the BPRS will also provide input into the review of the Member State reporting tools for Member State reports under Article 117 (1) of REACH, Article 46 (2) of CLP, Article 22 (1) of PIC, Article 65 (3) of BPR and Article 13 of POPs.

**Basis in Forum Rules of Procedure:** Article 2(1)(a), (d)

**Basis in the legal text:** Articles 77(4)(a), (d), 117(1) of REACH, Articles 46(2), (3) of CLP, Articles 18(2), 22(1) of PIC, Article 65(3) of BPR, Article 13 of POPs

#### **a. Objectives**

- Review the information currently shared by the Forum (e.g. REF projects, Member State presentations, reports from Member States shared with the Forum, Forum enforcement indicators) and establish what new data may be needed annually.
- Pilot the annual REACH and CLP enforcement reporting exercise, evaluate it and decide whether it is beneficial for it to continue.
- Ensure the alignment of the templates with the existing enforcement indicators in a dynamic way.
- Analysis of the results of annual reports to develop priority areas of enforcement.

#### **b. Main outputs**

- New annual REACH reporting template for Member State enforcement activities.
- Evaluation report from the pilot annual REACH enforcement reporting exercise.
- Decision if annual enforcement reporting should continue.
- Templates for the reports to the European Commission required under Article 117(1) of REACH, Article 46(2) of CLP, Article 22(1) of PIC, and Article 65(3) of BPR reviewed.
- Analysis of the agreed annual reporting template and decision on what information collected from annual reports should be published and in what form.

## Activity G: Organisational and communication issues

This chapter describes the organisational and general administrative issues which allow the Forum to prioritise and deliver its work within agreed timelines.

The work programme focuses on the internal prioritisation, description and planning of the Forum's activities. It enables the Forum to structure its legal tasks during the forthcoming years as it divides the numerous duties of the Forum into comprehensive, yet condensed activities.

Additionally, this chapter describes the communication plan of the Forum and the BPRS, which has at its basis ECHA's transparency policy, which needs to be balanced with the need to conduct effective enforcement of actors' duties. Compared to other ECHA bodies, the need to conduct effective enforcement sets some limits for the transparency of the Forum. Despite this, the aim of the Forum's policy is to ensure that the general public and the stakeholders are informed of the Forum's plans, its actions and the results of its activities.

### Activity G.1: Forum work programme

The Forum work programme is vital for structuring the work of the Forum and the BPRS, since it describes the key tasks agreed by Forum members and highlights priorities.

When defining priorities for the enforcement of REACH, CLP, PIC and the BPR, the Forum has employed a bottom-up approach taking due account of Member State interests, the objectives of the regulations, the tasks of the Forum stipulated within them, the experience gained from the activities of the Forum since 2008, and ECHA's strategic objectives as highlighted in ECHA's Strategic Plan 2019-2023.

During its start-up phase, the Forum mainly had to focus on setting up its processes and working procedures. With the successful conclusion of this phase in 2014, the Forum focused its activities on building up enforcement practices for the key obligations with the aim of ensuring the safe use of chemicals, such as REACH registration, restriction and authorisation, CLP classification and labelling, and PIC export notifications. The Forum will need to keep in mind, however, that it has a different role compared to a single Member State or an NEA, and thus needs to develop its own, slightly different objectives and priorities, which are centred on the harmonisation of enforcement as a whole. Hence the Forum needs to consider issues like the need for cooperation and coordination during enforcement actions, common interpretations, skill building in NEAs, cross-boundary enforcement, and more, during the prioritisation exercise.

In order to prepare this work programme and define the priorities, the Forum set up a dedicated working group to discuss relevant issues and propose priorities to be agreed by the Forum plenary. When defining the priorities for the current work programme (see Priorities 2019-2023), the Forum has drawn upon the experience from the last five years (e.g. findings of the Forum projects) and the proposals from members, the ECHA Secretariat and other Member State authorities. In addition, the working group also examined the recommendations from the Commission's REACH Review, which was itself based on the regular Member State reports under REACH, CLP, PIC and the BPR<sup>21</sup>.

The current work programme has been drafted for five years. However, it may be reviewed. This will give the Forum an opportunity to add or further specify any new emergent tasks it will receive as of 2019. The Forum and the BPRS will revise the Work Programme 2019-2023

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<sup>21</sup> E.g. [REACH Review 2017](#)

document if it is necessary to reflect new tasks, and review its priorities to ensure that it is still fit for the purpose of providing steering to the work of the Forum and the BPRS.

It is foreseen that the drafting of the new work programme for the years from 2024 onwards will be commenced at the end of this five-year cycle. Since the drafting of such a document and the decision-making process require time, the Forum and the BPRS should commit themselves to commencing the drafting of and consultation on the next work programme at an early stage, i.e. no later than the last Forum/BPRS plenary of 2022.

**Basis in Forum Rules of Procedure:** Article 2(1)(h)

**Basis in the legal text:** Article 77(4) of REACH, Article 46(3) of CLP, Article 18(2) of PIC, Article 76(1)(h) and (l) of BPR, Article 8(2) of POPs

#### **a. Objectives**

- Ensure that the delivery of the Forums/BPRS activities is completed according to the relevant timelines in line with the agreed priorities.

#### **b. Main outputs**

- Up-to-date list of working groups and their mandates is maintained on ECHA's website.
- Delivery of a new Forum work programme in time for the next planning cycle.
- As relevant, such as in relation to coordination of the network of authorities responsible for enforcement of the recast POPs Regulation, revise this work programme to ensure it is fit for the purpose of steering and providing structure to the work of the Forum.

### **Activity G.2: Communications plan**

Improving the transparency of Forum and BPRS activities and ensuring that the general public is aware of the activities of the Forum and enforcement in general is among priorities of the Forum in this work programme.

The communications plan aimed at the general public emphasises providing regular updates about its plans and activities. Indeed, enforcement activities in the field of chemicals have significantly increased since the establishment of the Forum. Therefore the visibility of these activities should be supported and build a realistic perception of the scale and breadth of enforcement (which is also likely to incite companies to comply with the regulations).

Communication directed at the general public should convey the achievements of enforcement authorities efforts and, when appropriate, some precautionary advice. Of particular interest to the general public and the duty holders are the Forum projects. Every year the Forum will announce the subjects of its future projects, and alert the public about upcoming inspection activities at the start of the operational phase. To further promote compliance among duty holders, reminders of ongoing projects will also be published via ECHA's social media channels. Of interest to the general public are the reports of Forum/BPRS projects, which are always published on ECHA's website, describing enforcement activities at EU level and communicating quantitative and qualitative results on enforcement.

Moreover, the Forum will summarise information about its projects in infographics, to ensure it is accessible to the general public in an understandable format. In addition, individual Forum and BPRS members shall be encouraged to publish information on national enforcement activities in their countries and to seek visibility of enforcement activities in the ECHA Newsletter, relevant

media and sectoral conferences. The Forum and the BPRS will continue to inform the press about results of its plenary meetings and publish minutes to ensure transparency of its activities.

The publication of Forum indicators and outcomes of coordinated projects are interesting pieces of information to impart as part of the Forum/BPRS communications plan. When the mechanism for annual reporting of national enforcement activities on REACH (see section F.1) is put in place, the Forum will agree if and how the information on these activities should be made public.

**Basis in Forum Rules of Procedure:** Article 2(1)(a), (g)

**Basis in the legal text:** Article 77(4)(a), (g) of REACH, Article 46(3) of CLP, Article 18(2) of PIC, Article 76(1)(h) and (l) of BPR

#### **a. Objectives**

- That the Forum and the BPRS provide the public and stakeholders with regular information on their activities and the results of their enforcement projects and, when applicable, the consolidated enforcement indicators of the previous year.

#### **b. Main outputs**

- Communication on Forum projects – news releases when the project subject is selected, when inspection activities start, and when the project is published. In addition, ECHA's social media channels will be used to send reminders about ongoing inspection activities during the operational phase.
- Forum and Member State enforcement indicators, when calculated and agreed by the Forum, should be disseminated to underline the achievements in enforcement.
- Continue to publicly distribute information produced by the Forum and the BPRS, including minutes and agendas of Forum/BPRS meetings, this work programme, news items and project reports. Furthermore, outputs of some of the Forum and BPRS main activities, such as guides on analytical methods, should also be published.
- Maintain and update on ECHA's website the list of national inspectorates, the link to the results of Member State reports (e.g. under Art 117 of REACH), and any other relevant documents published by the Commission.

## ANNEX I – OVERVIEW

Tables A and B below summarise the Forum and BPRS activities within the WP 2019-2023. It seeks to highlight when each activity is expected for all Forum activities outlined in this work programme, and highlights both the priorities of the task and in what year(s) of the WP that activity is foreseen to take place. It shall be the responsibility of the Forum Secretariat together with the Forum Chair and Vice-Chairs to evaluate and amend this table, the trigger being the first Forum meeting of the year, based on input from Forum Members and WGs.

**Table A: Activities of the Forum for REACH, CLP and PIC.**

Forum activity		Working Group/Task force	Activity planned				
			2019	2020	2021	2022	2023
<b>Activity A: EU coordinated enforcement projects</b>							
A1	Prioritisation of coordinated enforcement projects	WG ongoing					
A2	REACH-EN-FORCE and BPR-EN-FORCE projects						
	REF-6 – Classification and labelling	WG ongoing					
	REF-7 – Registration	WG ongoing					
	REF-8 – Internet sales	WG ongoing					
	REF-9 – Subject to be defined in 2019						
	REF-10 – Subject to be defined in 2020						
	REF-11– Subject to be defined in 2021						
	REF-12 – Subject to be defined in 2022						
A3	EU pilot enforcement projects						
	Pilot project: Substances in articles	WG ongoing					
	Pilot project: Authorisation 3	WG ongoing					
	Pilot project: Cooperation with customs	WG ongoing					
	Pilot project: Recovered substances						

Forum activity		Working Group/Task force	Activity planned				
			2019	2020	2021	2022	2023
<b>Activity B: Cooperation</b>							
B1	Cooperation methods between authorities – the interlinks process						
B2	Information exchange and cooperation with other enforcement authorities and networks	WG ongoing					
B3	Cooperation with stakeholders						
<b>Activity C: Guidance, training and learning for inspectors</b>							
C1	Best practice document						
C2	Guides and information outputs	WG ongoing					
C3	Training programme for inspectors	WG ongoing					
C4	Exchange of inspectors						
<b>Activity D: Electronic information exchange tools</b>							
D1	Access to information administered by ECHA	WG ongoing					
D2	Electronic information exchange system (ICSMS)						
<b>Activity E: Expertise on enforceability of regulatory measures</b>							
E1	Restrictions and analytical methods	WG ongoing					
	Advice on restriction proposals						
	Compendium of analytical methods						
E2	Enforceability of other regulatory measures						
<b>Activity F: Reporting on enforcement</b>							
F1	Structured and quantitative reporting						
<b>Activity G: Organisational and communication issues</b>							
G1	Forum work programme						

Forum activity		Working Group/Task force	Activity planned				
			2019	2020	2021	2022	2023
G2	Forum communications plan						

Table B: Activities of the BPRS regarding BPR.

Forum activity		Working Group/Task force	Activity planned				
			2019	2020	2021	2022	2023
<b>Activity A: EU coordinated enforcement projects</b>							
A1	Prioritisation of coordinated enforcement projects	WG ongoing					
A2	REACH-EN-FORCE and BPR-EN-FORCE projects						
	BEF-1 – Treated articles	WG ongoing					
	BEF-2 – Approved substances in biocidal products						
A3	EU pilot enforcement projects						
<b>Activity B: Cooperation</b>							
B1	Cooperation methods between authorities – the interlinks process						
B2	Information exchange and cooperation with other enforcement authorities and networks	WG ongoing					
B4	Cooperation with stakeholders						
<b>Activity C: Guidance, training and learning for inspectors</b>							
C1	Best practice document						
C2	Guides and information outputs						
C3	Training programme for inspectors	WG ongoing					
C4	Exchange of inspectors						

Forum activity		Working Group/Task force	Activity planned				
			2019	2020	2021	2022	2023
<b>Activity D: Electronic information exchange tools</b>							
D1	Access to information administered by ECHA	WG ongoing					
D2	Electronic information exchange system (ICSMS)						
<b>Activity E: Expertise on enforceability of regulatory measures</b>							
E1	Restrictions and analytical methods						
	Advice on restriction proposals						
	Compendium of analytical methods						
E2	Enforceability of other regulatory measures						
<b>Activity F: Reporting on enforcement</b>							
F1	Structured and quantitative reporting						
<b>Activity G: Organisational and communication issues</b>							
G1	Forum work programme						
G2	Forum communications plan						

		Activities expected to be done this year. Pattern fill is used for specific projects under a given activity.
		Activities may be done this year. Pattern fill is used for specific projects under a given activity.
		Activities not expected to be done this year.



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