MINUTES OF THE

THIRD MEETING BPR SUBGROUP OF THE

FORUM FOR EXCHANGE OF INFORMATION ON ENFORCEMENT

BPRS-3

9-10 NOVEMBER 2017

Helsinki, Finland

Contents

I. Summary record of the proceedings

The items reported in the minutes refer to the final agenda of the BPRS-3 (Content IV, Annex I).

Item 1 – Welcome and introduction

1.1 Opening by the Chair of the BPRS

The Chair of the BPRS welcomed the participants and opened the meeting. He announced apologies, invited experts, and stated the proxies appointed. The Chair informed that the quorum requirement was met.

The Chair announced that the meeting was recorded for the purpose of writing the minutes. The recordings are going to be destroyed after the minutes are adopted.

1.2 Adoption of the agenda

The ECHA Forum Secretariat informed the plenary about the changes to the agenda compared to the one uploaded onto CIRCA BC and indicated that there were two room documents:

- ECHA/BPRS-3/2017/12.1_room_doc Biocides poising project – IT BPRS member;
- ECHA/BPRS-3/2017/5.2_room_doc Template Report Article 65.3.

The following item was included in the AOB section of the agenda following a request of a BPRS member: "Active substance master batches – which role do manufacturers have in the supply chain and what are the related Article 95 obligations?"

The final agenda was adopted.

1.3 Declarations of conflicts of interest with regard to agenda items

No conflicts of interest (according to Article 9(2) of the Forum Rules of Procedure - ROPs) were declared at the meeting.

1.4 State of play with regard to the action points from BPRS-1

The ECHA Forum Secretariat informed the plenary on the status of the action points from the BPRS-2 (document ECHA/BPRS-3/2017/1.4) and highlighted that all actions were discharged and most were addressed in agenda items of the BPRS-3.

1.5 Debriefing of the meeting with ECHA Directors and Forum Chairs

The Chair updated the BPRS members about the meeting held with ECHA Directors. The main highlights of the meeting relevant to the BPRS were the discussion related to the future involvement of the ECHA's Accredited Stakeholders (ASOs) in the work of the BPR Subgroup of the Forum, the impact of Brexit on the work of ECHA and NEAs, the use of alternatives to animals testing under REACH/BPR (potential joint activities between ECHA Secretariat and Forum).
The Chair informed the plenary that the discussion about the collaboration with ASOs will be touched upon during the item 7 of the plenary.

Following the request from the BPRS, the Forum Secretariat will provide the members with the minutes of the meeting held with ECHA Directors (Content IV, Annex 4).

The Chair finally informed the plenary about the forthcoming end of the term of the current ECHA's Executive Director. The new nominated Executive Director will start his mandate on 1 of January 2018.

1.6 Mandate(s) of the Forum/BPRS WGs/TFs

The Forum Secretariat informed the BPRS members that all the BPRS WG mandates are included in one document (ECHA/BPRS-3/2017/1.6). Among them there are some mandates related to the joint WGs with the Forum. The latter have been updated during the Forum-28 plenary. During the BPRS-3 the revised joint mandates will be showed accordingly.

1.7 Report of the written procedures and other issues between BPRS-2 and BPRS-3

The Chair informed the BPRS members that a document with the results of the written procedures that took place since BPRS-2 was created and uploaded accordingly on S-CIRCABC.

Item 2 – Updates from Forum

2.1 Updates from Forum-28

One of the members of the BPRS briefly summarised, on behalf of the Chair of the Forum, the subjects discussed at the Forum-28 meeting that were relevant for the BPRS:

- Establishment of the WG for the Forum Activity programme 2019+. The BPRS was invited by the Forum to join the WG and work jointly;
- Discussion on a potential joint session of the plenary meetings Forum/BPRS. The initial reactions from the Forum members were positive;
- Update from the Forum Secretariat related to the Rules of Procedure;
- Updates from the progress reports of joint WGs. The following topics will be touched upon also during the BPRS-3 meeting:
  - Progress report from the WG REF-6;
  - Progress report from the WG Best practice documents;
  - Progress report from the WG Training for trainers 2018.
- Updates from the discussion with ASOs (Forum-28 open session):
  - EURATEX investigation on breaches in textile articles;
  - Enforcement actions related to the avoidance of animal testing under REACH;
  - ASOs invitation to submit project proposals in 2018.

The Chair followed up the summary and highlighted the benefit of establishing a joint session during future plenaries of the Forum/BPRS. Common topics could be dealt in joint agenda items involving all the members of the Forum and BPRS. The Chair suggested as indicative date for a pilot joint session the meeting to be held in March 2019 at ECHA.

The BPRS members generally supported the idea of a joint session. The chance to network and learn from the colleagues of the Forum was considered beneficial. Two BPRS members highlighted the importance of using the time efficiently and avoiding overlapping of topics. During the discussion the Forum Secretariat highlighted the importance of using the time efficiently and avoiding overlapping of topics, pointing out the need to use the resources wisely. From the ECHA's perspective a joint session might shorten the overall duration of the meetings.

The BPRS members were invited to submit to the Forum Secretariat their feedback in writing about this matter. A follow-up discussion will be included in the agenda of the next plenary in March 2018.

Item 3 – BPRS enforcement activities (on-going projects)

3.1 - Prioritisation of BPR enforcement projects

3.1.1 REACH-EN-FORCE project Methodology, Practical example of methodology in use for the prioritisation in the Forum - ECHA Forum Secretariat

A representative of the Forum Secretariat presented some practical examples of the methodology in use for the prioritisation of enforcement projects in the Forum. In particular, the selection and the management phases were outlined during the presentation. Challenging aspects of these two life-cycle phases were discussed in order to provide the BPRS members with a better understanding of the tool. In particular, the speaker highlighted that proposals for enforcement projects can be submitted by Forum members, ECHA, COM and ECHA Accredited Stakeholder Organisations (ECHA ASOs) and subsequently assessed by an *ad hoc* Working Group (WG) within the Forum. The members of the WG use the criteria established by the methodology in order to prioritise and shortlist the suggested topics and elaborate recommendations for its selection during the plenaries. The management of a project usually lasts three years, namely: a preparatory phase of the project, an operational phase and a reporting phase of the results. Also in this case the methodology gives a clear guideline on how to better perform the stages.

Finally the presentation emphasised the main advantages of the methodology such as transparency of the decision-making process, consistency in the management of enforcement projects and the reliability in planning and executing projects.

3.1.2 WG progress report and discussion on project

The Chair of the BPRS WG "Prioritisation of the BPR enforcement projects" introduced the work done by the WG and its conclusions since June 2017 (BPRS-2):

- The WG assessed the pros and cons of the two projects discussed at BPRS-2: i) treated articles; ii) biocidal products containing non-approved active substances;
- The WG proposes for execution of the two consecutive enforcement projects: first project on treated articles; second project on biocidal products containing non-approved active substances to be tacked after the finalisation of the first project;
- The WG assessed the Forum methodology for selecting projects recommended to the BPRS to accept its use for selecting/managing enforcement projects;
- The WG finalised the survey on national BPR enforcement activities and it will be run among the BPRS members after the BPRS-3.

The BPRS decided to follow the recommendation of the WG and agreed on the first enforcement project on Treated Articles to be executed in the years 2018-2020.

The second enforcement project on biocidal products containing non-approved active substances will be kicked off after the reporting phase of the first project, indicatively in the year 2021. In such case the project would last until 2023. This timing might be revised during future plenaries based on the resources involved at national level and the experience gained by the BPRS.

After the decision, the BPRS WG "Prioritisation of the BPR enforcement projects" was closed. The BPRS then established the new WG on the "First BPR enforcement project". The WG members agreed with the new mandate and asked the BPRS to appoint additional members to perform the forthcoming tasks. The names of experts appointed during the plenary can be submitted in writing by the Forum Secretariat in the weeks after the plenary.

Among the tasks of the WG for the coming months, the WG members will analyse the outcome of the survey on national BPR enforcement activities. A summary of the evaluation will be presented at the March 2018 meeting.

3.1.3 Discussion on the applicability of the Forum Methodology for the selection of enforcement projects.

The BPRS followed the recommendation of the BPRS WG "Prioritisation of the BPR enforcement projects" and accepted the Forum methodology for the selection, management and evaluation of harmonised enforcement projects.

As follow-up action, one BPRS member joined the Forum WG on "Prioritisation of REF projects" in order to adapt the document in line with the essential requirements of the BPR and amend it by the inclusion of the BPR terminology.

The revised document will be presented at the next plenary in 2018 after its adoption by the Forum.

3.2 REACH-EN-FORCE-6 on Classification and Labelling – BPR module

A BPRS member of the WG REF-6 informed the plenary about the progress of the REF-6 project. The operational phase of the project will be kicked off in January 2018. The project manual is now adopted by both groups, Forum and BPRS. A separate version of the Manual for Switzerland was produced, concentrating only on the biocides part. The training for national coordinators was held in October 2017.

3.3 Training for Trainers 2018 – BPR module

Chair of the Forum WG "Training for Trainers" reported to the plenary the training proposals received by the Forum secretariat from the BPRS members in relation to the first 'training for trainers' event to be held at ECHA in October 2018. Most frequently members asked for training to be scoped in line with the first enforcement project. There were also proposals to focus the training on in situ generated active substances, treated articles, IT tools, and biocidal product authorisation.

Based on the previous decision to focus the first enforcement project on treated articles (see item 3.1.2 of the agenda of the BPRS-3), the BPRS decided to have treated articles also as topic for the first training for trainers in 2018. This will ensure that the inspectors will be trained in time for the operational phase of the project in 2019.

The joint Forum-BPRS WG Training for Trainers 2018 was subsequently separated in two groups in order to better manage the resources available. The BPRS established its own WG "Training for BPR enforcement trainers 2018".

The WG Chair asked the BPRS members to nominate new members (trainers) for the WG, and to send to the Forum Secretariat specific content materials for the training.

The WG group will meet in the beginning of January 2018 in order to start the preparatory phase of the training. The WG members will make an analysis of the topic suggested and the materials received.

The Chair of the BPRS invited the WG on the "First BPR enforcement project" on treated articles and the WG "Training for BPR enforcement trainers 2018" to cooperate in preparing their respective outputs.

3.4 Implementation of PD-NEA

The Chair of the BPRS informed the plenary that the activity of the WG was put on hold last June 2017 and its implementation is postponed until 2019. It is foreseen that the WG will start working again at the end of 2018.

The Forum secretariat informed the BPRS members that the ECHA project on the dissemination website concerning the BPR information is still on-going as planned. The new dissemination website should be ready by quarter four of 2018.

3.5 Revision of the Forum best practice documents – obligation requirements of the BPR

The Forum Secretariat informed the BPRS that the Forum best practice documents were revised in order to include the comments received by the Forum and BPRS members.

After the discussion held at the Forum-28, the WG is going to finalise the document in line with the conclusions of the Forum plenary, and the Forum Secretariat will launch its adoption (for both groups) via written procedure during November 2017.

After its adoption, the document will be published on ECHA's website. After that last step the WG "Forum best practice documents" will be closed.

Item 4 – BPRS activities - Activities under preparation

4.1 Forum Activity Programme 2019+

The Forum Secretariat presented the mandate for the new WG "Forum Activity Programme 2019+", which will prepare the activity programme of the both groups, BPRS and Forum, from the year 2019 onwards (the previous activity programme ends in 2018).

The BPRS appointed its representatives to this joint BPRS-Forum WG, which will commence its work in 2018.

Item 5 – Updates on relevant developments by the Commission

5.1 General updates on the BPR provisions by the European Commission

The COM representative (DG SANTE) gave an update of the COM's activities that were relevant for the work of the BPRS, in particular the status of the template of the Article 65(3) report, the progress of the fact-finding missions organised and managed by the DG SANTE[1], the work related to Endocrine Disruption substances and the status of the Article 3.3 of the BPR requests triggered by MSs.

The COM mentioned that they will circulate the final draft template of Article 65(3) report to the BPRS members as soon as possible after the plenary. The feedbacks previously received by the Forum and BPRS members were taken into account and integrated in the document together with the comments collected at the Competent Authority meeting for Biocides in September 2017. COM stated that the ultimate goal is to endorse the final template at the Competent Authority meeting for Biocides in November 2017. During the discussion, the BPRS members pointed out the need to have the reporting template ready by the beginning of the reporting period, because enforcement data and figures from past years often cannot be obtained retrospectively.

[1] Directorate F - Health and food audits and analysis Unit, Pesticides and biocides, Grange, Ireland

COM updated the BPRS with a brief state-of-play of the fact-finding mission for biocides. The project is not an audit and no legal action against the Member States will be taken at the end of the missions. The objective is to provide the Member States with suggestions for a better implementation/enforcement of BPR. The COM circulated the names of the Member States where the missions will take place and an indicative timing of the visits. The first mission will be held at the Hungary authority by the end of 2017. The Hungarian BPRS member mentioned that the agenda of the fact-finding mission was already circulated by COM, and that the check-list was agreed jointly with them. He expressed a positive opinion about the forthcoming fact-finding project. The COM representative will keep the BPRS updated about the result of the missions during the years 2018.

Item 6 – Updates from the Forum Secretariat

6.1 Update on the Forum Multi-annual Work Programme (MAWP) 2014-2018

The Forum Secretariat briefed the BPRS members on progress revision of the MAWP 2014-2018. The latest (seventh) version of the document was revised and presented at the BPRS-3 for adoption.

The BPRS adopted it during the plenary and agreed to hand it over to the Forum. The document will be sent for final adoption by the Forum in written procedure.

6.2 Revised Forum Rules of Procedure (ROPs)

The Forum Secretariat updated the BPRS members on the last version of the ROPs. The last changes were referring to the document deadline for uploading document on CIRCA BC before the June plenaries (which the Forum agreed to shorten to 12 days).
The document will be circulated for written adoption after the BPRS-3. Once adopted by the BPRS, the Forum will proceed to its final adoption.

6.3 Update on ECHA BPR Guidance

An ECHA representative updated the BPRS on the work from the Guidance Team at ECHA. He mentioned the latest documents published on the ECHA website and the future plans regarding BPR Guidance. Superseded guidance are now also published on ECHA's website. This can help authorities to check what were the provisions amended by the new implemented guidance. He mentioned the status of the guidance on Endocrine disruption substances which is a joint project with the European Food Safety Authority (EFSA).
The BPRS members welcomed the update.

Item 7 – Implementing elements of the MAWP

7.1 Liaising with industry, discussion on feedbacks received by BPRS members

The Chair of the BPRS introduced the topic on 'liaising with industry' following up the discussion held during the previous plenary in June 2017 and the feedbacks received by BPRS members on the topic.

In the multi-annual programme, both the Forum and the BPRS have a communication strategy which clearly requires the members to liaise with ECHA Accredited Stakeholders (ASOs) and provide information to the general public. It is also the statutory task of the BPRS to liaise with stakeholders. The Chair of the BPRS quickly briefed the members on what the Forum put in place in the previous years of activities. In particular, the established format of the liaisons with the ASOs is the so-called 'open session', where representatives of ASOs are invited to participate and bring points for discussion. The agenda of the 'open session' of the Forum-28 was showed and discussed.

The Forum Secretariat explained how open sessions actually are organised at ECHA, and the practicalities of confidential parts during the meetings. Some stakeholder organisations already expressed their interests for the future activities of the BPRS.

A BPRS member mentioned the importance to maintain the work performed by the BPRS fully transparent to the outside world. Organising open sessions during BPRS plenaries is fundamental.
Other two BPRS members pointed out that the first open session with ASOs should be organised only once the first enforcement project on treated articles will be operational. In this way the BPRS could update the industries on how and what the NEAs are doing in their internal market. Forum Secretariat indicated that this would delay such open session until 2019.

COM pointed out how industries are very interested in understanding and following the work of ECHA, and especially the future enforcement projects of the BPRS. It is important to show them how the BPRS takes decisions and prioritises the enforcement projects.

The BPRS members were invited by the Chair to send their feedback in writing to the Forum secretariat about the preferred way of liaising with the ASOs. A follow-up discussion on the matter will be included in the agenda of the March 2018 plenary.

Item 8 – Updates on the illegal use of fipronil (contaminated egg incident)

8.1 Fipronil, legal background and actual situation in the EU market

The COM representative (DG SANTE) gave the BPRS an update of the COM's activities related to the illegal use of fipronil (contaminated egg incident).

A notification of a food business operator of a non-compliant results of fipronil in eggs started the incident on 2 June 2016. Namely, a trader based in Romanian sold to a Belgium duty holder the active substance fipronil which was illegally used as biocide for food producing animals (non-authorised use).
The Standing Committee on Plants, Animals, Food and Feed is in charge to work on the case. The risk for public health is considered low, since all Member States confirmed that no biocidal products containing fipronil against red mite in poultry farms are allowed on their market.

An ad-hoc monitoring exercise in the food chain was launched by COM in order to get an EU-wide view on the contamination of eggs and chicken meat due to the illegal use of acaricides. Member states were asked to submit the monitoring data to the European Food Safety Authority (EFSA) by 30 November 2017.

COM mentioned how this case might have serious financial consequences/weakened public confidence in the EU food safety framework and its implementation. It is crucial in this framework to find also the illegal use of fipronil in third countries.

COM concluded that the criminal procedure is ongoing and that the BPRS members will be kept posted on the future updates on the case.

8.3 Discussion on the alert/coordination biocides systems

The COM representative briefed the BPRS members on the current situation on alert/coordination biocides systems existing in the NEAs. Several tools might be used in case of incidents related to biocides, although no harmonised approach is in place.

The COM representative asked the BPRS members to reflect on the importance of having a consistent way of reacting in case of future crisis. It's important to be prepared and consistent in order to better tackled incidents.

The Chair of the BPRS indicated that under the Forum the alerting system developed in collaboration with COM is named ICSMS, "internet-supported information and communication system for the pan-European market surveillance", stipulated by the market surveillance regulation. The BPRS members were asked to respond to a brief questionnaire (to be sent by the Forum Secretariat after the BPRS-3) on the alert/coordination biocides systems used at national level. A discussion on the use of alert systems for BPR enforcement will be held at the March 2018 plenary as follow-up of the feedbacks received.

Item 8 bis - Proposal for harmonising poisonings reporting

The Italian BPRS member introduced the room document about the project intended to harmonise the collection of data for the MS report on biocides poisonings. She proposed that BPRS members complete a questionnaire about what and how the poisonings data is collected.

The Italian BPR member asked the BPRS members to participate in this project replying to the questionnaire. The information would be processed by the Italian enforcement authority. The results will be discussed in future BPRS plenaries and potentially be used as a starting point to harmonise data collection, classification and reporting from the Member States. The CAs positively considered the idea to include biocides poisoning data into the obligatory report under Article 65.3. The discussion is still on the table of the Competent Authority meeting for Biocides.

It was agreed that BPRS members willing to respond to the questionnaire and cooperate with IT will express interest to the Forum-S and the IT BPRS member. IT BPRS member will then send the survey only to those BPRS members who indicate their willingness to take part in that activity.

Item 9 – Practical issues for enforcement

9.1 Items raised by the BPRS/ECHA/COM

- Issue 3.1 - Article 3(3) decisions (horse rug as a biocidal product)

The Commission representative communicated that COM's legal service decided that no transitional period is allowed for Article 3(3) decisions.

The BPRS decided to park the Practical Issue at hand until the Practical Issue BEG 3.2 will be agreed by the BPRS members. This is because both issues have to describe what NEAs will do when they encounter a specific non-compliance. The same principle will be applied in both draft conclusions.

- Issue BEG 3.2 - Article 95 enforcement

The Forum Secretariat presented the status of the issue.

The BPRS did not agree on the BEG 3.2 draft conclusion at hand. The conclusion will be further re-drafted by the Forum Secretariat to address the concerns of countries involved, putting more emphasis on national legislations and enforcement. The BPRS members who voted against the draft conclusion were invited to comment on it again in writing after it being made available.

The Chair of the BPRS requested that members should submit new practical issues for enforcement for the next BPRS 50 days before the next meeting, namely by 22 January 2018. The new practical issues should be sent using the revised template of Annex II of the MoC.

Item 10 – Information on National enforcement activities

10.1 National policy for the enforcement of BPR in Switzerland

The Swiss BPRS member presented the enforcement activities in his country.

The focus of the presentation was on the national legal framework, the organisation of the different authorities managing the chemical legislations, the organisation of the enforcement, on-going enforcement projects and general issues tackled by the NEA in relation to the use of biocidal products in Switzerland.

The three on-going enforcement projects outlined during the presentation were: i) biocidal active substances in facade coatings (biocidal products/treated articles), ii) biocidal active substances in textiles and iii) general check of biocidal products present in the Swiss market in the year 2017-2018 (authorised biocidal products, trade and craftsmen).

In the ensuing discussion, one BPRS member asked about the typology of fees that the Swiss authority has in place. The CH representative clarified that that penal sanctions are given at canton level and then prosecution is at federal level.

Another member asked about how many products the Swiss authority is capable to enforce per year. The speaker mentioned that an approximate amount of 100 products per year are enforced in Switzerland.

Finally, the CH representative indicated that also in Switzerland further investigations are on-going in relation to the fipronil incident (see item 8.1 of the BPRS-3).

At the end of the discussion, the Chair invited other BPRS members to present their national enforcement approaches at the next plenaries.

Item 11 – Cooperation with other networks

11.1 CLEEN update of projects

The BPRS member representing the CLEEN Secretariat presented the general situation of the CLEEN, the BPR projects that the CLEEN is currently undertaking, and the planned future activities.

This included a presentation of the results of the EuroBiocides 2017 on the detection of unauthorised biocidal products in Europe and a synopsis of the project named EurOzone.
The final report of the EuroBiocdes 2017 will be shared among the BPRS members as soon as it will be finalised and published on CLEEN website.
At the following link it is published the final report on EuroBiocides III on treated articles: http://www.cleen-europe.eu/projects/eurobiocides-iii.html (see Annex 5 of the minutes for the pdf version). The BPRS members welcomed the project report and appreciated the update from the CLEEN network. The learnings of EuroBiocides III will be considered when preparing the BPRS project on treated articles.

Item 12 – Any Other Business

The BPRS mandated the Austrian BPRS member (i.e. Chair of the BPRS) to represent the BPRS in future ADCO chairs meetings.

The Portuguese BPRS Member was invited to submit to the Forum Secretariat the question included in the AOB section of the agenda (see item 1.2) as a Practical Issue in order to be assessed by the BPRS members and discussed at the next BPRS-4.

II. MAIN CONCLUSIONS & ACTION POINTS - Adopted at the BPRS-3

MAIN CONCLUSIONS & ACTION POINTS – BPRS-3
9-10 November 2017
(Adopted at the BPRS-3 meeting)

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting
Item 1- Welcome and introduction		
1.1 Opening by the Chair of the BPRS		
1.2 Adoption of the Agenda	Agenda was adopted	
1.3 Declarations of conflict of interest		
1.4 State of play with action points from BPRS-2		
1.5 Debriefing of the meeting with ECHA Directors and Forum Chairs		**Forum-S** will incorporate the minutes of the meeting in the minutes of the BPRS-3.
1.6 Mandate(s) of the Forum/BPRS WGs/TF		
1.7 Status Written Procedure		
Item 2 – Updates from Forum		
2.1 Updates from the relevant discussions held at the Forum-28		**Forum-S** will invite the Forum and BPRS to provide feedback about joint BPRS-Forum sessions, including the summary of initial reactions of the Forum. **BPRS members** are invited to send written feedback their preference and timing for the joint sessions with BPRS by 23 December.
Item 3 – BPRS enforcement activities On-going projects		
3.1 Prioritisation of BPR enforcement projects		
3.1.1 REACH-EN-FORCE project Methodology, Practical example of methodology in use		

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting
for the prioritisation in Forum		
3.1.2 WG progress report and selection of 1st project	BPRS decided to initiate the first project on Treated articles in the period 2018-2021 BPRS decided that its second major enforcement project will focus on control of biocidal products for the presence of non-approved active substances.	**BPRS members** appointing exerts to the WG are invited to clarify their names by 30 November.
3.1.3 Discussion on the applicability of the Methodology	The BPRS decided to adapt the Forum methodology for selection of projects and appointed experts for Forum WG "Prioritisation of REF Projects"	
3.1.4 Mandate(s) amendment	BPRS closed the mandate of the WG "Prioritisation of BPR enforcement projects" BPRS established a WG "First BPR enforcement project – BEF-1"	
3.2 REACH-EN-FORCE-6 on Classification and Labelling – BPR module		
3.2.1 Forum WG progress report		
3.2.2 Mandate amendment	BPRS revised the mandate of the WG	
3.3 Training for Trainers 2018 – BPR module		
3.3.1 Forum WG progress report		
3.3.2 Discussion on the agenda of the 1st training for trainers	BPRS decided that the training for trainers in 2018 will focus on Treated Articles.	**BPRS members** are invited to propose specific content of the agreed priority topic by the Forum by 8 December 2017. **BPRS members** are invited to propose additional experts who could contribute to the success of the training by 8 December 2017. **BPRS members** are invited to suggest possible training material suitable for the adopted topic by 16 February 2018.

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting
3.3.3 Mandate amendment	The BPRS established a new WG "Training for BPR enforcement trainers 2018"	
3.4 Implementation of PD-NEA		
3.4.1 WG progress report		
3.4.2 Mandate amendment	BPRS revised the mandate of the WG	
3.5 Revision of the Forum best practice documents, obligation requirements of the BPR		
3.5.1 Forum WG progress report		
3.5.2 Mandate amendment	BPRS revised the mandate of the WG	
Item 4 – BPRS activities - Activities under preparation		
4.1 Forum Activity Programme 2019+ Establishment of the WG Mandate	BPRS revised the mandate of the WG.	
Item 5 – Updates on relevant developments by the Commission		
5.1 General updates on the BPR provisions by the European Commission/Update on the fact-finding missions		
5.2 Discussion on the revised template for the report in accordance with Article 65(3) of the BPR		**COM representative** will deliver the new revised draft of the report template to the Forum-S by 13 November 2017. **Forum-S** will launch a consultation with BPRS on 14 November 2017. **BPRS members** will comment on the revised template to the Forum-S by 4 December. **Forum-S** will compile the BPRS feedback and submit to the COM by 8 December 2017.
Item 6– Updates from the Forum Secretariat		

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting
6.1 Update on the Forum Multi-annual Work Programme (MAWP) 2014-2018	The BPRS adopted the revised Forum Multi-annual Work Programme (MAWP) 2014-2018.	
6.2 Revised Forum Rules of Procedure		
6.3 Update on the ECHA guidance		
Item 7 – Implementing elements of the MAWP		
7.1 Liaising with industry, discussion on feedbacks received by BPRS members	*The BPRS decided it will aim at liaising with the stakeholder organisations through an open sessions.*	**Forum-S** will approach the ASOs and inquire them about the topics they would like to bring to the BPRS by 30 November 2017. **Forum-S** will schedule a discussion on liaising with ASOs at BPRS-4.
Item 8 – Updates on the illegal use of fipronil (contaminated egg incident)		
8.1 Fipronil, legal background and actual situation in the EU market		***Confidential (in italic)*** ***BPRS members*** *are invited to inform the UK BPRS member about any cases where fipronil may be involved in bee deaths (either as biocide or veterinary medicine) by 23 December 2017.*
8.2 Discussion on the potential need for harmonised approach to be taken by NEAs		
8.3 Discussion on the alert/coordination biocides systems		**Forum-S** will prepare a short questionnaire to collect structured feedback about the use of alert systems for biocidal products in the Member States. Forum-S will send the questionnaire out by 24 November 2017. **BPRS members** are invited to provide feedback on the used alert system for biocidal products – what system is used, by which authority and in what cases by 31 January 2018. **Forum-S** will schedule further discussion about the alert systems at BPRS-4.

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting
Item 9 – Practical issues for enforcement		
9.1 Items raised by the BPRS/ECHA/COM (list of practical issues is prepared independently from the agenda)		**Forum-S** will revise the conclusion of BEG 3.2 consult it with BPRS members from NL, EL, CY and ES. **Forum-S** will re-consult the conclusion with BPRS, once an acceptable wording of the conclusion is found for EL, CY, NL and ES members. **Forum-S** will revise the conclusion of BEG 3.1 once the acceptable conclusion of found for BEG 3.2.
Item 10 – Information on National enforcement activities		
10.1 National policy for the enforcement of BPR in Switzerland		**BPRS members** willing to present the national system for enforcement of BPR are invited to inform the Forum-S by 20 January 2018.
Item 11 – Cooperation with other networks		
11.1 CLEEN update on BPR projects		**CH BPRS Member** will provide the report EuroBiocides2017 or link to it to the Forum-S who will either include the link in the minutes of BPRS-3 or distribute the report to BPRS-3.
Item 12 – Any Other Business		
12.1 Proposal for harmonising poisonings reporting		**BPRS members** willing to respond to the survey and cooperate with IT BPRS member on development of the common dataset are invited to inform the IT BPRS member by 30 November 2017. **IT BPRS member** is invited to send the questionnaire to the willing BPRS members who have expressed interest in taking part in the initiative.
12.2 BPRS representative to ADCOs	The BPRS mandated the AT BPRS member/BPRS Chair to represent it in future ADCO chairs meetings.	
12.3 Role of formulators of master		**PT BPRS Member** will submit the question as the Forum-S for consideration

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting
batches in the supply chain of AS		for as practical issue for BPRS.

III. List of attendees of the BPRS-3

BPRS members

	Country	Name
1	AT	ANWANDER Eugen
2	BE	DE VOS Helmut
3	BG	HRISTOVA Viktoriya
4	CH	BUERGY Heribert
5	CY	GAVRIEL Alexandros
6	CZ	JAROLIM Oldřich
7	DE	FRENTZEL Stefan
8	DK	SKALS Dorrit
9	EE	LINNO Annemari
10	EL	MITSOPOULOU Kornilia
11	FI	KARNANI Päivi
12	HU	NÉMET Balázs
13	IE	WHELAN Michelle
14	IT	RAVAIOLI Francesca
15	LT	VZESNIAUSKAITE Evelina
16	LU	ENGELS Kim
17	LV	KAZEROVSKA Kristine
18	MT	FARRUGIA Bernice
19	NL	BRAAM Marianne
20	NO	SKJAERGAARD Catherine
21	PL	PISAREK Dominik
22	PT	MARTINS DE ALMEIDA Inês
23	RO	CIRLAN Cristiana
24	SE	BERGSTROM Emma
25	SK	POCAROVSKA Miriam
26	UK	POTTS Mike

Advisors

	Country	Name
1	DE	WURSTHORN Sibylle
2	DK	BACH HANSEN Lise
3	ES	DEL PRADO GOMEZ Maria
4	FI	MÄKI Markus (9 Nov 2017)
5	FI	VALKAMA Tuuli (10 Nov 2017)

European Commission representative

	DG	Name
1	SANTE	NAGTZAAM Mario

ECHA's Forum Secretariat Staff

	ECHA	Unit
1	BARANSKI Maciej	Support, Forum and HelpNet Secretariat
2	TECCE Nicola	Support, Forum and HelpNet Secretariat
3	CLIFFE Brendan	Support, Forum and HelpNet Secretariat
4	NIKULA Terhi	Support, Forum and HelpNet Secretariat
5	TUOMAINEN Anita	Support, Forum and HelpNet Secretariat
6	NOUWEN Johan	Support, Forum and HelpNet Secretariat

IV. List of Annexes

Annex 1. Final agenda of BPRS-3

Annex 2. List of mandates of BPRS WGs/Forum WGs

ANNEX 2 a BPRS WG - First BPR enforcement project
ANNEX 2 b Forum WG - Preparation of the Forum Action Programme 2019+
ANNEX 2 c Forum WG - Prioritisation of REF Projects
ANNEX 2 d Forum WG - Training for enforcement trainers 2018 – BPR module
ANNEX 2 e Forum Task force - Revision of the best practice documents
ANNEX 2 f Forum WG - Implementation of PD-NEA
ANNEX 2 g Forum WG - Coordinated enforcement project REACH-EN-FORCE-6

Annex 3. Glossary of acronyms and abbreviations

Annex 4. Minutes of the meeting with ECHA Directors and Forum Chairs

Annex 5. CLEEN EuroBiocides 2017 report

Annex 1 – Final agenda of BPRS-3

European Chemicals Agency
Helsinki, Finland

9-10 November 2017

Starts on Thursday, 9 November at 15:00
Ends on Friday 10 November at 15:00

Item 1 – Welcome and Introduction *15:00 –15:30*

1.1 Opening by the Chair of the BPRS – *Chair*
1.2 Adoption of the Agenda – *Chair*
1.3 Declarations of conflict of interest with regard to agenda items – *Chair*
1.4 State of play with action points from BPRS-2 – *ECHA Forum Secretariat*
1.5 Debriefing of the meeting with ECHA Directors and BPRS Chair – *Chair*
1.6 Madate(s) of the Forum/BPRS WGs/TF – *Chair*
1.7 Report of the written procedures and other issues between BPRS-2 and BPRS-3 - *Chair*

For information/adoption

ECHA/BPRS-3/2017/1.4
ECHA/BPRS-3/2017/1.6
ECHA/BPRS-3/2017/1.7

Item 2 – Updates from Forum *15:30-15:40*

2.1 Updates from the relevant discussions held at the Forum-28 – *Forum Chair/Vice Chair/Forum member*
For information

Item 3 – BPRS enforcement activities *15:40-18:10*
On-going projects

3.1 Prioritisation of BPR enforcement projects (90')
3.1.1 REACH-EN-FORCE project Methodology, Practical example of methodology in use for the prioritisation in Forum - *ECHA Forum Secretariat*
3.1.2 WG progress report and selection of 1st project - *WG Chair*
3.1.3 Discussion on the applicability of the Methodology
3.1.4 Mandate(s) amendment - *ECHA Forum Secretariat*

3.2 REACH-EN-FORCE-6 on Classification and Labelling – BPR module (15')
3.2.1 Forum WG progress report - *BPRS Chair*
3.2.2 Mandate amendment - *ECHA Forum Secretariat*

3.3 Training for Trainers 2018 – BPR module (30')
3.3.1 Forum WG progress report – *WG Chair*
3.3.2 Discussion on the agenda of the 1st training for trainers
3.3.3 Mandate amendment - *ECHA Forum Secretariat*

3.4 Implementation of PD-NEA (5')
3.4.1 WG progress report - *WG Chair*
3.4.2 Mandate amendment - *ECHA Forum Secretariat*

3.5 Revision of the Forum best practice documents, obligation requirements of the BPR (10')
3.5.1 Forum WG progress report – *BPRS Chair*
3.5.2 Mandate amendment - *ECHA Forum Secretariat*

For information/discussion
For adoption

ECHA/BPRS-3/2017/3.1.1
ECHA/BPRS-3/2017/3.2.1
ECHA/BPRS-3/2017/3.3.1
ECHA/BPRS-3/2017/3.4.1
ECHA/BPRS-3/2017/3.5.1

End of first day

Start of second day at 8:30

Item 4 – BPRS activities - Activities under preparation *08:30-08:50*

4.1 Forum Activitity Programme 2019+
Establishment of the WG Mandate - *ECHA Forum Secretariat*

For discussion

Item 5 – Updates on relevant developments by the Commission *08:50-10:00*

5.1 General updates on the BPR provisions by the European Commission/ Update on the fact-finding missions
5.2 Discussion on the revised template for the report in accordance with Article 65(3) of the BPR

For information/discussion

Item 6 – Updates from the Forum Secretariat *10:00-10:20*

6.1 Update on the Forum Multi-annual Work Programme (MAWP) 2014-2018
6.2 Revised Forum Rules of Procedure
6.3 Update on the ECHA guidance

For information/For adoption

ECHA/BPRS-3/2017/6.1
ECHA/BPRS-3/2017/6.1_Annex 3
ECHA/BPRS-3/2017/6.2
ECHA/BPRS-3/2017/6.3

Item 7 – Implementing elements of the MAWP *10:45-11:25*

7.1 Liaising with industry, discussion on feedbacks received by BPRS members
For discussion

Item 8 – Updates on the illegal use of fipronil (contaminated egg incident) *11:25:12:00*

8.1 Fipronil, legal background and actual situation in the EU market – *COM representative*
8.2 Discussion on the potential need for harmonised approach to be taken by NEAs – *BPRS Chair*
8.3 Discussion on the alert/coordination biocides systems - *BPRS Chair*

For information/discussion

Item 8 bis – Biocides poisonings reporting – IT BPRS *12:00:12:20*

8.1 bis Proposal for harmonising poisonings reporting – IT BPRS member

For information

ECHA/BPRS-3/2017/12.1
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Lunch break 60'

Item 9 – Practical issues for enforcement *13:20-13:50*

9.1 Items raised by the BPRS/ECHA/COM (list of practical issues is prepared independently from the agenda) - *ECHA Forum Secretariat*

For discussion/adoption

Item 10 – Information on National enforcement activities *13:50-14:20*

10.1 National policy for the enforcement of BPR in Switzerland – *CH BPRS member*
For information

Item 11 – Cooperation with other networks *14:20-14:50*

11.1 CLEEN update on BPR projects – *CLEEN representative (CH BPRS member)*
For information

Item 12 – Any Other Business *14:50-14:55*

Item 13 – Adoption of conclusions and action points *14:55-15:00*

End of Meeting *15:00*

Annex 2. List of mandates of BPRS WGs/Forum WGs

ANNEX 2 a – BPRS WG - First BPR enforcement project

(Mandate created at BPRS-3)

Chair: Emma BERGSTRÖM (SE)

Forum Members/Alternates:
- Jabik DE BOER (NL)
- Francesca RAVAIOLI (IT)
- Marios ADAMIDES (CY)

Experts:
- Marianne BRAAM (NL)
- Karin PFAFF (DE)
- Jenny Karlsson (SE)
- EL (to be nominated)
- FR (to be nominated)
- AT (to be nominated)

Objective:
- Conceive and manage the first major BPRS enforcement project on treated articles

Mandate:
- Develop the project manual (guidance document, checklist, planning, recommendations) for the execution of the project;
- Prepare and deliver, if needed, the training for project national coordinators
- Management of the operational phase;
- Management the reporting phase: Follow-up operational phase, collect the results and draft project evaluation;
- Cooperate with WG Train the trainers 2018 during the preparation and delivery of the content of the training;
- Elaborate tips and hints for inspectors based on the relevant outcomes from the project;
- Elaborate a questionnaire on gathering information on national enforcement activities from the BPRS members.

Timeline:
- Assessement of needs and proposals to facilitate the project: Q1 2018;
- Approve the scope by the BPRS: Q2 2018;
- Project manual: Q4 2018;
- Prepare and deliver the training for project national coordinators:Q4 2018;
- Operational phase: 2019;
- Reporting phase: Q1 2020;
- Questionnaire to be run after the BPRS-3.

ANNEX 2 b –Forum WG - Preparation of the Forum Action Programme 2019+
(Mandate established at Forum-28 and BPRS-3)

Chair: Sinead McMICKAN (IE)

Forum/BPRS Members/Alternates
- Katja VOM HOFE (DE)
- Graca BRAVO (PT)
- Dominik PISAREK (PL) (BPRS)
- Eugen ANWANDER (AT) (BPRS)

Invited Experts
- DE

Commission
- DG GROW Representative

ECHA
- Maciej BARANSKI (ECHA)

Objectives:
- Prepare a Forum Action Programme 2019+ outlining the work of the Forum and BPRS for the years starting 2019 onwards.

Mandate:
- Develop Forum Action Programme 2019+ describing the activities of the Forum and BPRS with accompanying high level planning;
- Define the time and scope of the Action Programme;
- Comment on the ECHA strategic document 2019-2023;
- Ensure that the Forum Action Programme 2019+ is consistent , where applicable, with the strategic priorities and objectives defined in the ECHA strategic document 2019-2023.

Tentative Timeline:
- Forum-31 – final Forum Action Programme 2019+.

ANNEX 2 c - Forum WG - Prioritisation of REF Projects
(Mandate adopted at Forum-28 and BPRS-3)

Chair: Tasoula KYPRIANIDOU LEONTIDOU (CY) – rotating Chair

Forum Members/BPRS Members / Alternates
- Maria Letizia POLCI (IT alternate)
- Paul CUYPERS (BE)
- Oldrich JAROLIM (CZ)
- Dubravka KREKOVIC (HR)
- Abdulqadir SULEIMAN (NO Alternate)
- Sofia BARATA (PT)
- Marianne BRAAM (NL – BPRS member)

Invited Experts
- Semira MEHIC (SI)
- Hannah DOHERTY (UK) – BPRS support
- Andrea MAYER-FIGGE (DE)
- Tamas KOVACS (HU)

ECHA
- Juan Pablo CALVO TOLEDO

Objective:
- Propose annually the subject for the next harmonised enforcement project coordinated by the Forum (REF Projects)

Mandate:
According to the working procedure for the prioritisation and selection of REF projects, the WG shall:
- Review annually a list of proposals for REF projects submitted by Forum members, ECHA Secretariat, the Commission and the Stakeholder Organisations accredited by ECHA (ASOs);
- Prioritise the subjects by applying Forum's methodology for the prioritisation, selection and management of REF projects;
- Draft a recommendation proposing the subject for the next REF project;
- Elaborate and update a registry of legal obligations subject to previous enforcement projects.

Propose to the Forum topics for pilot and small-scale projects as an output of the prioritisation exercise where appropriate.

In addition, the WG will revise the methodology for the prioritisation, selection and management of REF projects and implementing its working procedures to be adopted by the Forum. The WG will propose the adjustments of the methodology with regard to the inclusion of the BPR terminology and the Annex I with the essential requirements of BPR.

The WG shall signal if any more significant changes will be needed to use the REF project methodology for the BPR projects so that BPR projects can be prioritised and managed according to this methodology (subject to the agreement in the BPR Subgroup to be decided at the BPRS-2).

The WG will operate from Forum-16 (October 2013) until the end of 2018 (end of the Forum WP 2014 – 2018). The mandate of the WG can be renewed to operate after this period.

Timelines:

- The basic timeframes are regulated by the Forum Methodology on Prioritisation and Selection of Project Proposals and the working procedure for the prioritisation and selection of harmonised enforcement projects coordinated by the Forum;
- Propose the revised methodology including the BPR terminology by Forum-31/BRPS-6;
- Shortlist of subjects for REF-8 by Forum-31.

ANNEX 2 d - Forum WG - Training for enforcement trainers 2018 – BPR module
(Mandate adopted at BPRS-3 and BPRS-3)

Composition:

Chair: Mike POTTS (UK)
Vice-Chair: Jenny KARLSSON (SE)

BPRS Members/Alternates
- Dominik PISAREK (PL)
- Eugen ANWANDER (AT)

BPRS Invited Experts
- Becky HAMER (UK)
- Shelley Collins (UK)
- Nadine Grisel (CH)
- Heribert Bürgy(CH)
- Margareta Daho (SE)
- DE (BPRS)
- EL (BPRS) two members to be nominated

ECHA
- Nicola Tecce

Objective:
- Prepare and deliver the training for trainers on the enforcement of BPR in the fourth quarter of 2018.

Mandate:
- Examine the training subjects relevant for enforcement in the fourth quarter of 2018 and prepare the priority topics for agreement before BPRS-3;
- Specify as early as possible the envisaged level of the content of the training;
- Prepare materials necessary for the training such as presentations or documents
- Actively conduct the training event with support from other BPRS members, ECHA and COM and other experts in specific topics as necessary;
- Collect, summarise and evaluate the recommendations and reactions of participants;
- Consider inviting input from the Accredited Stakeholders Organisations.

Timeline:
- Before BPRS-3: conclude on list of subjects and prioritisation;
- BPRS-6/BPRS-7: final report.

ANNEX 2 e – Forum Task force - Revision of the best practice documents
(Mandate adopted at Forum-28 and BPRS-3)

Chair: Sinead McMICKAN (IE)

Forum Members/Alternates
- Katja VOM HOFE (DE) (also BPR)
- Marilla LAHTINEN (FI Alternate)
- Eugen ANWANDER (AT) (also BPR)

Forum BPR Subgroup members

- Emma BERGSTRÖM (SE)

Commission
- Miguel AGUADO MONSONET

Objectives:
- Review and amend the Forum's best practice documents "Strategies for the enforcement of REACH and CLP" and "Minimum Criteria for REACH and CLP Inspections" according to the MWAP 2014-2018.

Mandate:
- Revise the best practice documents taking into account the information in the MAWP 2014-2018 and the experience from the Member States in the application and implementation of these documents;
- Consider the REACH review and the experience obtained with the Forum's projects to cover new issues and any changes that affect the implementation of the Chemicals legislation;
- Include enforcement activities related to the PIC Regulation and BPR;
- Cooperate with the Forum's BPR Subgroup and revise the documents to include enforcement activities related to BPR.

Timeline:
- Q4 2017: Adoption of the revised best practice documents by the Forum.

ANNEX 2 f – Forum WG - Implementation of PD-NEA
(Mandate adopted at Forum-28 and BPRS-3)

Chair: Pablo SANCHEZ-PEÑA (ES)

Forum Members/Alternates
- Eugen ANWANDER (AT)
- Maria Jose Falcao (PT)
- Eleni FOUFA (EL)

Invited Experts
- Juergen SCHMID (DE)

Objective:
- Support the implementation of the PD-NEA allowing inspectors access to data submitted to ECHA.

Mandate:
- Provide input during further development and implementation of PD-NEA;
- Verify that the UAT conditions are implemented with and follow up the implementation of the WG improvement requests.

Timeline:
- Forum-29 (Q1 2018).

ANNEX 2 g – Forum WG - Coordinated enforcement project REACH-EN-FORCE-6
(Mandate adopted at Forum-28 and BPRS-3)

Chair: Henrik HEDLUND (SE)

Forum Members and Alternates
- Gro HAGEN (NO)
- Elena ZIDAROVA (BG)
- Dimitrios CHATZIANTINOU (EL Alternate)
- Graca BRAVO (PT Alternate)
- Pablo SANCHEZ-PEÑA (ES)

Invited Experts
- Petra SCHLAG (DE)
- Markus MAKI (FI)
- Mariana DE VRIES-HLAVACOVA (NL)
- Žilvinas UŽOMECKAS (LT)
- Zsuzsanna KISS (HU)
- Panagiota SKAFIDA (EL)

BPRS Members and Experts
- Viktoriya HRISTOVA (BG)
- Emma BERGSTROM (SE)
- Gilles CROIZÉ-POURCELET (FR)
- Anna MASLARSKA (BG)

Objective:
- conceive and manage the sixth major Forum enforcement project REF-6.

Mandate:
- Management of the operational phase;
- Management the reporting phase: Follow-up operational phase, collect the results and draft project evaluation;
- Elaborate tips and hints for inspectors based on the relevant outcomes from the project;
- Include biocides in the scope of the project in collaboration with the appointed BPR experts;
- Define the scope of enforcement activities under Art 45 and Annex VIII of CLP;
- Address in the manual the issue of mechanical compression strength of the LLDCs.

Timeline:
- Project manual: Q4 2017;
- Prepare and deliver the training for project national coordinators: Q4 2017;
- Define the scope of enforcement activities under Art 45 and Annex VIII of CLP: Q2 2018;
- Operational phase: 2018;
- Reporting phase (National Coordinators): Q1 2019;
- Evaluation phase: Q3 2019;
- Draft report: Q4 2019;
- Adoption of the report: Q4 2019;
- Tips and hints for inspectors: Q4 2019.

Annex 3. Glossary of acronyms and abbreviations

AOB	Any Other Business
BEG	Biocidal Enforcement Group (chaired by DG SANTE)
BPRS	BPR Subgroup, a Subgroup of the Forum which coordinates the BPR enforcement
CLEEN	Chemicals Legislation European Enforcement Network
CLP or CLP Regulation	Regulation (EC) No 1272/2008 on Classification, Labelling and Packaging of Substances and Mixtures
COM	European Commission
DG	Directorate General at the Commission
DG SANTE	Directorate General on Health and Food Safety/European Commission
EU	European Union
FORUM	The Forum for Exchange of Information on Enforcement: Network of authorities responsible for the enforcement of the REACH, CLP, PIC and BPR regulations in the EU, Norway, Iceland and Liechtenstein
MAWP	Multiannual Work Programme
MOC	Manual of Conclusions
MS	Member State
NEAs	National Enforcement Authorities
REACH and REACH Regulation	Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals
REF	REACH-EN-FORCE, Coordinated Enforcement Project of the Forum
ROPs	Rules of Procedure
PD-NEA	Portal Dashboard for National Enforcement Authorities – the successor system to RIPE
TF	Task Force of the Forum/BPRS
WG	Working Group of the Forum/BPRS
WIN PPIE	ECHA Work Instruction - Processing Practical Issues for Enforcement

Annex 4. Minutes of the meeting of ECHA Directors and Forum Chairs

The meeting touched upon the following points of discussion:

1. Use of alternatives to testing on animals – could there be joint activities between ECHA Secretariat and the Forum?

- ECHA faces strong stakeholder pressure on taking action in this area and is interested to give something to the ASOs, indicating that action is being taken on according to Article 13(1) and 25(1).
- Results from the Forum discussion – Forum will address these cases as a generic interlink. MSs will try to inform sooner about their intention to enforce which cases/buckets so that ECHA can build a picture.
- What are the hindrances in enforcing these duties?
    - Legal: the REACH requirement referring to the last resort is vague – so it is difficult to prove that there was a non-compliance. Especially if registrants indicate that they commissioned the test for the purposes of regulatory obligations in third countries. The chance of actually enforcing and taking measures is low;
    - In UK, there is no action possible under REACH, but it is transferred to another authority. In IE, measures for breach of Article 13(1) and 25(1) are prohibitively hard to take. In order to issue a fine for the registrant, the NEA would need to bring him to the Court – this is highly resource intensive and would not be done for an offence such as this. Another enforcement measure is to issue a prohibition notice (i.e. take the substance off the market). However, NEAs can only do that if they demonstrate that there is a risk to human health and environment. This is not the case with breaching Article 13(1) or 25(1). Therefore, the only realistic measure to take is to issue a warning, which is a weak measure.
- Neither ECHA nor ASOs are looking for strong enforcement on registrants who already conducted tests, but rather for some targeted action and an educational effect of having the NEAs investigating the cases to send the signal to the industry.
- One of the chairs raised the efficiency of use of NEA resources - enforcement of this duty means a high investment with low yield. If all NEAs can do is warning, it is hardly a priority. One of the chairs indicated that since the cases come from ECHA, NEAs will follow them up reactively as they would in any other generic interlink case handed down by ECHA.
- Directors invited the Forum to inform ECHA about the national plans (if and which cases will be followed up), so that ECHA can have a picture of what to expect from NEAs.

2. ASO workshop

- ECHA considers the ASO workshop successful, as there was much good feedback received and the ASOs were particularly happy with the discussion on the Forum.
- Some impressions from the Forum discussions:
    - The participants were not the organisations that attend open sessions so they did not know about the Forum.
    - Good results came mostly from openness and willingness to discuss.
    - Need to communicate more on NEA activities (at Forum, but also at NEA level)

  - ASOs appear to be fine with the way of cooperation, though they are not aware of the entire Forum information published.
  - They also have a very clear perception of divergences in enforcement between MSs.
- Level playing field perceptions:
  - Are these just perception or reality? There are big differences in chromate applications of authorisations between countries and it is used widely. ECHA is aware that NEAs are not taking action in some cases like essential oils.
  - Forum will take action on the chromates on the upcoming Authorisation 3 pilot project and in addition, NEAs will generally not act until the authorisation decisions are actually taken.
  - Most of the complaints about the "level playing field" raised at the workshop stemmed from the fact that ASOs did not know much about the NEAs. The perception of NEAs is shaped by what ASOs know about the NEAs.
- NEA Plans for the future:
  - Webinars;
  - Open sessions;
  - Stronger announcement of project proposal window;
  - More information on national actions;
  - Infographics (simple summary of results);
  - Regular articles in ECGA Newsletter.
- Communication about NEA Activities:
  - It is difficulty to motivate NEAs to publish anything about their actions. Priority is to enforce, not to communicate. Enforcement in general is not open. Changing this would require a shift in attitude.
  - NEAs usually also lack the access to communications/PR specialists.
  - Directors indicated that promoting NEA activities – at least to the extent allowed at the national level - is in the interest of the NEAS as this promotes compliance.
  - ECHA is making short videos about key subjects -> perhaps some could be made about enforcement.

3. REF-7 - Measures in response to breach of registration duty

- What measures do NEAs take when they face breach of a registration duty? The duty holders can resent large variance in the measures in different countries.
- The Forum could never recommend a specific measure to NEAs – in some cases it is allowed to give a grace period, in others not. National laws prescribe possible measures. There is limited room for manoeuvre. Every case is judged individually. Some breaches are more risky than others (aluminium vs benzene). NEAs apply a proportionality principle and are generally pragmatic.
- All agreed that enforcement should be proportionate. First start with softer measures, then proceed to something more severe.
- SMEs should not be punished by sanctions - the focus of NEAs is to bring them to compliance[2].
- Common pattern in all sanctioning: the measures NEAs take always depend on the risk that comes from non-compliance. Lack of registration of aluminium will be enforced more softly than lack of registration of a CMR. When cases are discussed, the important

[2] It is possible that in some years, when registration data becomes freely available, there will be many non-EU providers of speciality chemicals arriving on the market and claiming the data for free – they may not afford the registration now, but in the future it will be able to enter with no cost

thing is that the result of the action is compliance = registration. The route, which NEAs may take to get there, may be different but the result will be the same.

4. AOB: BREXIT

- ECHA will launch a website with FAQs on Brexit.
- ECHA is noticing a number of legal entity changes from UK companies changing their location.
- If Brexit happens in March 2019, it may be justified to conduct a pilot project on companies who claim to have changed their legal entity, but have not really done it (and thus are still based in UK).
- Right now when a reference number is given to UK companies, it is given with the disclaimer that it will be valid until the BREXIT. Such a disclaimer is not added to decisions that set out the obligations for the duty holders.
- Brexit will affect the authorisations and their supply chains.
- Chairs indicated that such kind of "Brexit" project looks like a good idea.
- It is very sensitive to mention this now, but ECHA could allude that there will be the enforcement action after Brexit, to sensitise them.

Annex 5. CLEEN EuroBiocides 2017 report

EuroBiocides III final report.pdf