

16TH PLENARY MEETING OF THE BPR SUBGROUP OF THE
FORUM FOR EXCHANGE OF INFORMATION ON ENFORCEMENT

BPRS-16 MINUTES

14 JUNE 2022

HYBRID MEETING

CONTENTS

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Glossary of acronyms and abbreviations

AOB	Any Other Business
ASO	Accredited Stakeholder Organisation
BEF-1	First Biocides Enforcement Project
BPRS	BPR Subgroup of the Forum which coordinates the BPR enforcement
BPC	ECHA Biocidal Product Committee
CLP	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
DG GROW	Directorate General for Internal Market, Industry, Entrepreneurship and SMEs
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
HET	ECHA Harmonised Enforcement Team (former ECHA Forum Secretariat)
ICSMS	Internet-supported information and communication system for the pan-European market surveillance
MAWP	Multiannual Work Programme
MFF	ECHA Multi annual financial framework
MOC	Manual of Conclusions
MS	Member State
MSR	Market surveillance Regulation
NC	National Coordinator of the Enforcement Project
NEA	National Enforcement Authority
RAPEX	Rapid Alert System
REACH	Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals
REF	REACH-EN-FORCE, Harmonised Enforcement Project of the Forum
ROPs	Rules of Procedure
SPC	Summary of Product Characteristics
TA	Treated Articles
TF	Task Force of the Forum/BPRS
TfT	WG of the Forum/BPRS on Training for Trainers for national inspectors
WG	Working Group of the Forum/BPRS
WIN PPIE	ECHA Work Instruction - Processing Practical Issues for Enforcement

I. Summary record of the proceedings

Item 1 - Welcome and introduction

The Chair of the BPRS opened the plenary meeting which was held for the first time in hybrid mode, namely 17 members joining in person and 12 members remotely.

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

The final agenda was adopted (see Annex I) with one AOB concerning the results of the Forum/BPRS satisfaction survey.

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

The ECHA Harmonised Enforcement Team (HET) informed the members that six room documents were submitted after the documents deadline, namely on: i) the BEF-2 Progress Report; ii) the Training for national inspectors Progress Report; iii) the REF-8 Progress Report; iv) the BPRS Practical Issues; v) the update from ADCO Chairs meeting and the EUPCN; vi) the Forum/BPRS satisfaction survey.

All action points from the BPRS-15 were discharged.

The Chair informed the members that the meeting among the Forum/BPRS Chairs and ECHA Director is going to take place on 15 June. Main topics to be discussed focus on ATD request from external parties, transparency, and the European Audit Capacity.

Item 2 – Cooperation with ECHA bodies / Secretariat Update on Forum Work Programme 2021

2.1 Follow-up: EuOTA list of “non-compliant in situ devices” and experience in national enforcement

The Chair briefed the plenary on the experiences shared by two Member States in monitoring and enforcing the concerned devices included in the list submitted by the European Ozone trade Association (EuOTA).

Some BPRS members reported to the plenary their intention to investigate in the coming months different devices mentioned in the list.

Based on the overall inputs to be collected by the BPRS-17, the BPRS might evaluate the need for broader actions to be taken at EU level.

2.2 Information about work of ECHA Biocides Assessment Units and its relevance for enforcement

The Head of Units from the ECHA Risk Management Directorate presented to the plenary the main roles of ECHA under the BPR, the activities of the two dedicated biocides units (i.e. Biocidal Active Substances - D1, and Biocidal Products - D2), the current work of the Biocidal Products Committee, and the ECHA dissemination portal for biocides.

The presentation aimed at enhancing the cooperation between the BPRS members and the ECHA operational Units. Follow-up discussions concerning dissemination for enforcement authorities and information related to Article 95 and 94 of the BPR might be tabled during the next BPRS plenaries.

Item 3 - Updates on developments by the European Commission

3.1 Update from DG SANTE

The DG SANTE representative delivered an update of the Commission’s activities that were relevant for the work of the BPRS. The presentation started with the current work related to in situ biocidal products and active substances. Specifically, the speaker reported to the

members the case of the approval of ozone and the applicability of Article 19(4) of the BPR to this case. Information on the discussions concerning classification of active substances generated in situ was also shared with the members.

The Commission representative updated the BPRS members on the labelling of carry-over preservatives in detergents (as per the ongoing revision of the Detergents Regulation); and the state-of-play concerning the CA discussions on the wording of P-statements in SPC.

Other updates from DG SANTE were related to future considerations related to mutual recognition procedures for biocidal products, and to the technical assistance to Member States. In particular, the systematic delays in the procedures under the BPR and in the completion of the Review Programme led the Commission to consider offering the possibility for Member States to apply for grants. That would allow Member States to improve their efficiency in assessing application dossiers for active substances and biocidal products. Further discussion on the matter will take place among ECHA, EFSA and DG SANTE over the next months.

Item 2.bis Update from the Forum-41

The Forum Chair debriefed the BPRS members on the key issues to be tackled at the forthcoming Forum-41 plenary meeting to take place on 15-17 June. The update touched upon the REF-12 scope to be selected among the following topics: 'chemical compliance of imported goods', 'registration duties relevant to updated requirements and other follow-up requirements', and 'online sale'.

The speaker reported to the members the ongoing discussions concerning 'transparency of Forum advice on the enforceability of restrictions'; the preliminary results of the REF-9 on authorisation; and the scope of REF-11 on SDS.

Regarding the pilot project on classification of mixtures, the Forum Chair updated the plenary on the analysis performed by the Working Group members together with the ECHA experts and DG GROW on the interpretation of the CLP and its application for the evaluation of national cases of mixture classifications (as submitted by the Forum members by 30 June 2022). ECHA experts might potentially draft an *ad hoc* guideline on mixture classification once the ongoing CLP revision will be finalised.

Other updates were related to the next Forum Training for national inspectors (TFT) to be focused on SDS; and on the ongoing discussions related to the European Audit Capacity under the Chemicals Strategy for Sustainability.

Finally, the Forum Chair mentioned that a break-out-group session will take place at the Forum-41 to discuss on potential improvements concerning Forum plenaries and other processes related to Working Groups and their deliverables.

Item 4 – BPRS enforcement activities

BEF-2

The WG Chair updated the plenary on the BEF-2 on-going activities. The operational phase of BEF-2 was kicked off in January 2022 and national inspectors are currently performing enforcement activities in 26 Member States plus Norway, Iceland, Liechtenstein and Switzerland. The scope of the BEF-2 focuses on biocidal products containing non-approved/approved active substance (under BPR and under national legislation). The project includes horizontal obligations such as Article 95, advertisement, labelling and packaging. Ad hoc sections on disinfectant products and chemical analysis are also expected.

The speaker introduced to the plenary the agenda of the BEF-2 workshop to be held on 14 June afternoon, back-to-back to the BPRS-16. The event will involve the National Coordinators of the BEF-2 together with the BPRS members and the BEF-2 Working Group members. Break-out group sessions will facilitate the discuss on the state-of play with BEF-2 national inspections; main challenges with the BEF-2 manual and questionnaires; the use of EU Survey; chemical analysis on biocidal products; legal aspects of the BEF-2;

and the use of the ECHA dissemination website for biocidal products. A summary of the discussion might be elaborated by the Working Group members as outcome of the event. Finally, the speaker invited the BPRS members and NCs for the BEF-2 to liaise with the WG members and HET in case of questions related to the BEF-2 manual and questionnaires.

BPRS Training for national inspectors 2022

The preparatory phase of the 5th BPRS training event to be held under the umbrella of the BPRS was kicked off in May 2022. The draft agenda was adopted at the BPRS-16. The event will be delivered remotely on 2 December 2022, and it will be focused on CLP for biocides, in situ generating systems, and BPR borderline issues. Over the next months the Working Group members will elaborate the presentations and case studies to be presented during the training event. The collaboration with ECHA experts and DG SANTE was successfully established.

REF-8

A BPRS member participating to the REF-8 WG informed the plenary that the Forum adopted the document "REF-8 Practical Guidance for enforcement", and that the WG organised an *ad hoc* workshop with the ECHA accredited stakeholders (ASOs) on 17 May 2022 (publication of the proceedings on ECHA website expected during July 2022). The workshop had the participation of 26 representatives of 11 Marketplaces and companies trading online, and 12 representatives of seven ECHA's ASOs, including the address by one Member of the European Parliament. During the workshop, the presentation from Commission on the CLP revision and the Digital Services Act raised some interesting issues and discussions. In particular the main questions from the participants touched upon the liability exemption for intermediary services; the distinction between the terms online "offer" and "advertisement", and their references to the Article 48 of the CLP. The speaker reported to the plenary that the Working Group tasks as reported in the mandate were completed, and therefore the Working Group will be closed during the Forum-41.

Item 5 – Practical issues for enforcement

Two ongoing BPRS Practical Issues were analysed: i) legal aspects of the word 'vegetal' on biocidal product labels (i.e. Practical Issue BPRS-15.1); and ii) authorised rodenticides sold to non-professional users (i.e. Practical Issue BPRS-16.1). The BPRS members were invited to send to the HET their written comments as discussed at the plenary. The HET was then requested to revise the concerned draft conclusions and initiate follow-up rounds of consultations among the BPRS members and DG SANTE.

The BPRS members decided to close the pending Practical Issue BPRS-14.1 on in situ generated systems. Since discussions at the CA level are still ongoing, the originator of the Practical Issue was invited to resubmit the concerned draft conclusion, once more clarity on authorisation processes will be clarified and its relevance for enforcement activities need to be discussed within the BPRS.

Item 6 - Activities in Member States and cooperation with other networks

6.1 Update from ADCO Chairs meeting and European Product Compliance network

The Chair informed the plenary that four relevant meetings were held since the BPRS-15 namely: the EU Product Compliance Network (EU PCN) meeting n. 10 and 11; the *ad hoc* EU PCN on EU Testing Facility procurement; and the ADCO Chairs Meeting.

The topics tackled at those meetings touched upon: i) the guide for 'shopping under a cover identity' (document to be finalised in July 2022); ii) the new 'Blue Guide' on the

implementation of EU product rules 2022 (publication expected in June 2022); iii) the 'Peer Reviews' under Article 12 of the Market Surveillance Regulation.

6.2 Dutch case analysis - incidents with the use of phosphine in plant protection products and biocides

The Dutch BPRS member presented to the plenary a case analysis on incidents related to the use of phosphine contained in plant protection products and biocides. The presentation focused on the causes of the concerned incidents; the fumigation processes for foodstuffs, animal feed and raw material; the gas forming phosphide pills/pellets/tablets; and the handling of the concerned incidents. Solutions and directions of the problems were also presented and discussed among the BPRS members.

BPRS members were then invited to send questions and comments to the Dutch representative by 1 July 2022.

Item 7 – AOBs

7.1 Forum-BPRS Satisfaction survey

The discussion was postponed to the BPRS-17. A relevant document was made available among the BPRS members to provide written feedbacks after the plenary.

II. Conclusions & action points adopted at the BPRS-16 (public)

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting
Item 1- Welcome and introduction		
1.2 Adoption of the Agenda and declarations of conflict of interest	Agenda was adopted.	
1.3 Action points and written procedures from BPRS-15		
Item 2 - Cooperation with ECHA bodies / Secretariat		
2.1 Follow-up: EuOTA list of "non-compliant in situ devices" and experience in national enforcement		<p>BPRS members who are willing to investigate in situ devices listed by EuOTA are invited to send their findings to HET by 1 October</p> <p>HET will then collect the inputs and table them at the BPRS-17 to decide whether the BPRS might need to take broader actions.</p>
2.2 Information about work of ECHA Biocides Assessment Units and its relevance for enforcement		
Item 2.bis - Update from Forum activities		
Item 3 - Updates on developments by Commission		
3.1 Update from DG SANTE on BPR provisions		
Item 4 - BPRS enforcement activities		
4.1 BEF-2		BPRS members and NCs are invited to liaise with the WG members and HET in case of questions related to the BEF-2 manual and questionnaires
4.1.1 Progress Report		
4.1.2 Mandate amendment	BPRS revised the mandate	
4.2 WG on Training for national inspectors 2022		
4.2.1 Progress Report	The BPRS adopted the agenda of the training event.	<p>BPRS members are invited to appoint national experts to join the WG Tft 2022 by 1 July 2022</p> <p>BPRS members are invited to submit relevant material to the elaboration of the cases studies in view of the training event by 1 July 2022</p>

4.2.2 Mandate amendment	BPRS revised the mandate	
4.3 REF-8 Follow-up		
4.3.1 Outcome of the ASOs workshop		
4.3.2 Closure of the mandate	BPRS agreed to close the mandate of the WG.	
Item 5 – Practical issues for enforcement		
5.1 Items raised by the BPRS/ECHA/COM (list of practical issues is prepared independently from the agenda)		BPRS members are invited to submit new practical issues before the end of September.
Practical issue 14.1		
Practical issue 15.1 – use of the word “vegetal” on the label		HET will revise the draft conclusion based on the BPRS feedback and send for consultation by 1 July
Practical issue 16.1 – sale of rodenticides to general public		COM will come back with additional comments by 1 July. HET will revise the draft conclusion based on the BPRS and COM feedback and send for consultation by 12 July
Item 6 - Activities in Member States and cooperation with other networks		
6.1 Update from ADKO Chairs meeting and the EU Product Compliance network (EUPCN)		BPRS Chair to provide to HET the Blue Guide and the final version of the Guide on cover identity once available for further distribution to BPRS Members by HET
6.2 Dutch case analysis - incidents with the use of phosphine in plant protection products and biocides		BPRS members are invited to send questions and comments by 1 July
Item 7 AOBs		
7.1 BPRS satisfaction survey 2021		BPRS members are invited to send any feedback by 15 August
Item 8 – Adoption of conclusions and action points		
BEF-2 Workshop		

III. List of attendees of the BPRS-16

BPRS members

	Country	Name
1	AT	ANWANDER Eugen
2	BE	DE VOS Helmut
3	BG	HRISTOVA Viktoriya
4	CH	BUERGY Heribert
5	CZ	JAROLIM Oldrich
6	DE	SCHROETER Meike
7	DK	DAUGAARD JENSEN Nicholai
8	EE	HONGA Aljona
9	EL	GKILPATHI Dimitra
10	ES	TEBAR LUJAN Jorge
11	FI	TAURIALA-RAJALA Terhi
12	FR	VERDIER Elodie
13	HR	PILETIC Kaca
14	HU	NEMET Balazs
15	IE	CANTY Mary
16	IT	LONGO Antonina
17	LI	RELLA-QUADERER Maria-Rosaria
18	LT	HAKAITE Palmira
19	LU	HERMES Joe
20	LV	DAUGELE Santa
21	MT	FARRUGIA Bernice
22	NL	BRAAM Marianne
23	NO	SKJARGARD Catherine
24	PL	MOCZULAK Aleksandra
25	PT	DIAS Marina
26	RO	CIRLAN Cristiana
27	SE	KARLSSON Jenny
28	SI	HAJRLAHOVIC-MEHIC Semira
29	SK	POCAROVSKA Miriam

Advisers

	Country	Name
1	AT	FUCHS Michael
2	DE	FRENZEL Stefan
3	DE	WURSTHORN Sibylle
4	DK	MADSEN Betina
5	ES	ESCALADA AGUILERA Jesus
6	LU	LENTZEN Esther
7	NL	DE BOER Jabik
8	NO	HELGERUD Trygve
9	PL	STULCZEWSKI Dawid

	Country	Name
10	SE	STIGWALL Johanna

European Commission representatives

	Country	Name
1	DG SANTE	NEGULICI Ligia

ECHA staff

	ECHA	Unit
1	ANNYS Erwin	Head of Unit Support and Enforcement
2	BARANSKI Maciej	Support and Enforcement
4	LEHTO Anastasia	Support and Enforcement
5	MATEUS Tania	Support and Enforcement
6	NIKULA Terhi	Support and Enforcement
7	TECCE Nicola	Support and Enforcement
8	TLOCZEK Magdalena	Support and Enforcement

IV. List of Annexes

Annex 1. Adopted agenda of BPRS-16

Annex 3. List of Forum / BPRS WG mandates adopted at BPRS-16

3 a. Forum/BPRS REF-8

3 b. BPRS WG BEF-2

3 c. BPRS WF Tft 2022

Annex 1. BPRS-16 adopted agenda

Place: Telakkakatu 6, Helsinki (meeting room: Sisu K361)

Item 1 – Welcome and introduction	<i>09:00-09:10</i>
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- 1.1 Opening by the BPRS Chair
- 1.2 Adoption of the agenda and declarations of conflict of interest
- 1.3 Action points and written procedures from BPRS-15

For information/adoption

Item 2 – Cooperation with ECHA bodies / Secretariat	<i>09:10-09:50</i>
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- 2.1 Follow-up: EuOTA list of “non-compliant in situ devices” and experience in national enforcement (15’)
- 2.2 Information about work of ECHA Biocides Assessment Units and its relevance for enforcement (25’) – ECHA *D1-D2 Units*

For information/discussion

Item 3 – Updates on developments by Commission	<i>09:50-10:15</i>
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- 3.1 Update from DG SANTE on BPR provisions (25’)

For information/discussion

Item 2.bis – Update from Forum activities (10’)	<i>10:45-10:55</i>
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Item 4 – BPRS enforcement activities	<i>10:55-11:30</i>
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- 4.1 BEF-2 (5’)
 - 4.1.1 Progress Report
 - 4.1.2 Mandate amendment
- 4.2 Training for national inspectors 2022 (15’)
 - 4.2.1 Progress Report
 - 4.2.2 Mandate amendment
- 4.3 REF-8 Follow-up (15’)
 - 4.3.1 Outcome of the ASOs workshop
 - 4.3.2 Closure of the mandate

Item 5 – Practical issues for enforcement	<i>11:30-12:05</i>
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- 5.1 Items raised by the BPRS/ECHA/COM (list of practical issues is prepared independently from the agenda)

For discussion/adoption

Item 6 – Activities in Member States and cooperation with other networks 12:05-12:30

- 6.1 Update from ADCO Chairs meeting and the EU Product Compliance network (EUPCN) (5') – *BPRS Chair*
- 6.2 Dutch case analysis - incidents with the use of phosphine in plant protection products and biocides (20') – *NL BPRS member*

For information/discussion**Item 7 – AOBs** 12:30-12:40

- 7.1 Placeholder

Item 8 – Conclusions and action points 13:40-13:45**End of BPRS-16 plenary meeting** 13:45

BEF-2 Workshop 13:45-17:30

- BEF-2 workshop participants and objectives (15') – *BEF-2 WG Chair*
- First session of break-out group discussions (list of topics is prepared independently from the agenda) (60')
- Second session of break-out group discussions (60')
- Debriefing from the break-out groups, Q&As and conclusions (50')

End of workshop 17:40

Annex 3. List of Forum/BPRS WG mandates adopted at BPRS-16

Forum-BPRS REF-8

Chair: Karin RUMAR (SE)

Forum Members and Alternates

- Eugen ANWANDER (AT)
- Martin MARKO (CZ)
- Maria PALEOMILITOU (CY)

Invited Experts

- Kevin BUCKLEY (IE)
- Timea TARNOCZAI (HU)
- Jurgita BALCIUNIENE (LT)
- Ingrida STULGIENE (LT)

BPRS Members and Experts

- Cathrine SKJÆRGÅRD (NO) (BPRS member)
- Jenny KARLSSON (SE) (BPRS alternate)
- Jabik DE BOER (NL) (BPRS alternate)
- Anne HORN (DE) (BPRS expert)

ECHA: Tania MATEUS

Objective: Conceive and manage the eighth major Forum enforcement project REF-8 'Enforcement of CLP, REACH and BPR duties related to substances, mixtures and articles sold on-line'.

Mandate:

1. Develop the project manual (guidance document, checklist, planning, recommendations) for the execution of the project, taking into account the learnings from previous Forum projects "control of internet sales" and "REF-4" and others at EU level;
2. Define the specific duties to be covered in the project;
3. Prepare and deliver the training for project national coordinators
4. Management of the Operational phase
5. Management the Reporting phase: Follow-up operational phase, collect the results and draft project evaluation
6. Elaborate tips and hints for inspectors based on the relevant outcomes from the project
7. Prepare and organize a short WebEx workshop for ECHA ASOs to present the results and recommendations from this project

Timeline

- Project manual: Q4 2019
- Prepare and deliver the training for project national coordinators: Q4 2019
- Operational phase: 2020
- Reporting phase (National Coordinators): Q1 2021
- Evaluation phase: Q3 2021
- Draft report: Q4 2021
- Adoption of the report: Q4 2021
- Tips and hints for inspectors: Q2 2022
- Workshop with ASOs: Q2 2022

BPRS BEF-2

Chair: Jenny KARLSSON (SE)

BPRS Members/Alternates

Heribert BUERGY (CH)
Cathrine SKJAERGARD (NO)
Eugen ANWANDER (AT)
Helmut DE VOS (BE)
Antonina LONGO (IT)

Invited Experts

Nadine GRISEL (CH)
Catherine BERTSCHY (CH)
Tobias SCHLEICHER (DE)
Mariana DE VRIES (NL)
Raffaella PERRONE (IT)
DE BOER Jabik (NL) – *organisation and running of the BEF-2 workshop*

ECHA: Nicola TECCE; Anastasia LEHTO

Objective: Conceive and manage the second BPRS enforcement project on biocidal products containing non-approved/approved active substances

Mandate:

1. Defining the detailed scope of the BEF-2 in agreement with the BPRS members
2. Develop the project manual (guidance document, checklist, planning, recommendations) for the execution of the project
3. Prepare and deliver the BPRS Training 2021 for national inspectors and national coordinators focused on the BEF-2
4. Management of the operational phase
5. Management the reporting phase: follow-up operational phase, collect the results and draft project evaluation
6. Elaborate a Practical guide for inspectors based on the relevant outcomes from the project
7. Design and deliver an *ad hoc* workshop focused on the best practises and problems encountered by inspectors during the operational phase, if appropriate
8. Prepare and organize a workshop for ECHA ASOs to present the results and recommendations from the project

Timeline:

- Approval of BEF-2 scope: Q1 2021
- Project manual: Q4 2021
- BPRS training 2021: Q4 2021
- Operational phase: 2022
- BEF-2 workshop: Q2 2022
- Reporting phase: 2023
- Workshop with ASOs: Q2 2024

BPRS Training for national inspectors 2022

Chair: Helmut De Vos (BE)

BPRS Members/Alternates :

- Eugen ANWANDER (AT)
- Joe HERMES (LU)
- Élodie VERDIER (FR)

Invited Experts:

- Yannick HERREMANS (BE)
- Sylvie VAN NIEUWENHOVE (BE)
- Birgit LÜNEMANN (DE)

ECHA: Nicola TECCE

Objective:

- Prepare and deliver the training for national inspectors for the enforcement of the BPR

Mandate

1. Examine the training subjects relevant for enforcement and prepare the draft agenda for agreement by Q2 2022
2. Specify the envisaged level of the content of the training
3. Prepare materials necessary for the training (presentations and case studies)
4. Actively conduct the training event with support from other BPRS members, ECHA and COM and other experts in specific topics as necessary
5. Collect, summarise and evaluate the recommendations and reactions of participants

Timeline

- Draft agenda for agreement by Q2 2022
- Delivery of the training: Q3 2022
- Final report adopted: Q4 2022