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Minutes of the 8th meeting of the Forum for Exchange of Information on Enforcement European Chemicals Agency, 12-14 October 2010

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I. SUMMARY RECORD OF THE PROCEEDINGS

Item 1 – Address by the Executive Director of ECHA, Mr Geert Dancet

Mr Dancet welcomed the participants. The meeting was significant being the last plenary before the first major REACH registration and the C&L notification deadlines; thereafter inspectors in Member States face the challenge of effectively enforcing some of the most important obligations of REACH and CLP. He acknowledged the work done by the Forum's Working Groups to progress its tasks and projects, notably on the enforceability of restriction proposals and a second enforcement project - REACH-EN-FORCE 2 – and asked that inspectors check whether substances placed on the market in mixtures are registered, and recommended that if they are not, then inspectors should follow this up along the supply chain with the substance suppliers.

This Forum meeting was also crucial in terms of evaluating its first Work Programme covering 2008-2010 and preparing the new Work Programme 2011-2013. Mr Dancet looked forward to the Forum's adopting a new Programme early next year.

The Forum's next meeting in March 2011 was also the right time to take stock on what the Member States have reported in their Article 117 reports on enforcement and for Members to provide their own input into ECHA's first report on implementation of REACH that is due in June 2011.

Item 2 – Welcome and Introduction

a) *Welcome by the Chairman of the Forum*

The Chairman of the Forum welcomed the participants, announced one recently appointed member and recalled the apologies received from three members not attending the meeting. He announced the proxies given according to Article 5(4) of the Forum Rules of Procedure. The Chair announced that the quorum requirement was met and informed the participants that the meeting was recorded for the purpose of writing the minutes. The recording will be destroyed after the minutes are adopted.

b) *Adoption of the agenda and declarations of conflict of interest with regard to agenda points (Chair)*

No conflicts of interest were declared. The Agenda was adopted (see Section IV, Annex I). The Chair announced that a representative from IMPEL was invited to the second day of the meeting to present their projects.

c) *Adoption of minutes from Forum-7 (Chair)*

Adopted.

d) *State of play with action points from Forum-7 (Secretariat)*

The Secretariat informed the plenary that most of the action points from Forum-7 had been dealt with or were covered in the Forum-8 agenda.

e) *Practicalities and brief recapitulation of results of the written procedures between Forum-7 and Forum-8 (Secretariat)*
Room document 01

The Secretariat informed members of the practical arrangements of the meeting. The written procedures since Forum-7 concerned the adoption of Forum advices on the enforceability of three restriction proposals and the adoption of the conclusions and recommendations from the Forum's *Coordinated REACH Enforcement Project on Registration, Pre-registration and SDS* (REACH-EN-FORCE-1 Project). These written procedures were concluded with agreement by consensus or simple majority.

Item 3 – Update on relevant developments by Commission

a) Update from CARACAL (COM)

The Commission gave a brief overview of subjects discussed in CARACAL and the REACH Committee which were relevant for the Forum. The information covered the interpretation of REACH Article 2(1)(b) and customs, legislative changes to REACH Annexes I, II, XIII, XIV and XVII, and adapting CLP to the third edition of GHS. The Commission expected the discussion on Article 2(1)(b) to conclude at the next CARACAL after which the Commission services' interpretation will be sent to the Forum.

The Commission informed the Forum about the enforcement pages on the DG-ENTR and DG-ENV websites. Both are linked to ECHA's website and the Commission encouraged all Forum members to provide and update the information on their national enforcement arrangements on the ECHA Enforcement web pages.

An extensive work programme on nanotechnology exists. This included a RIPoN (REACH Implementation Project on Nanomaterials) to assess what updates were needed to the REACH guidance to take account of nanotechnology; some guidance of relevance has now been published on the Commission services' web sites. More broadly, the Commission outlined the second phase of its work, due in 2011, to communicate the regulatory aspects of nanomaterials. The Commission directed members' attention to its website on nanomaterials; this included the CARACAL subgroup and national contact points.

The preparatory steps for 11 Commission contracts in 2010 and 2011 were underway. These included projects on the implementation and enforcement of restrictions, and on inspection. Regarding the project on restrictions, the main idea was to learn from Member States' experience on the enforcement of the older restrictions, of which around 50 exist. The Commission will provide more information at a future date and about how the Forum can contribute.

To conclude, the Commission referred to a meeting in September with colleagues on AMS; the RAPEX system includes some notifications under AMS Regulation on non-compliance with chemicals (cadmium products) on the market. The Commission validates these notifications. Member States are obliged to provide feedback on their action taken (even if no corrective action is found necessary). Very limited feedback had yet been received. This seems to imply that Member States had not followed up the RAPEX notification. The Commission asked Forum members to remind their AMS national contact points about any action taken at national level so that the information is published on the AMS CIRCA site.

Norway expressed the view that clarification was needed from DG-SANCO and DG-ENTR e.g. on the meaning of serious risk. This will assist national authorities on the relationship and use of the RAPEX notification system for, and its application to, products subject to REACH or the General Product Safety Directive. Finland agreed adding that prompt follow-up action had been taken in response to a RAPEX notification on cadmium in spoons but no serious risk had been identified.

Responding to a question from Austria on the baseline study of REACH, the Commission confirmed that this contract was being managed by Eurostat. Earlier, Eurostat conducted research on the state of the chemicals market pre-REACH using indicators on health, environment, competition and innovation. This study (phase 2) would examine how such indicators have changed. Information about phase 2 and the baseline study were available on Eurostat's website.

b) Outcome of Member States' reports on REACH operation with respect to enforcement (REACH, Article 117(1))
The Commission responded to the Secretariat's request on behalf of a number of Forum members for access to the Article 117 reports. Article 127 states that the Commission will make these reports available to the Agency and Forum. Access to the database had been granted to ECHA but access to the database was not foreseen for multiple user access. The Commission agreed to discuss with ECHA the mechanism for making the reports available to the Forum.

c) Feedback on Forum documents sent to Commission
Room document 6
Room document 8

The Commission gave feedback on 3 topics communicated by the Forum:
- analytical methods within Annex XVII of REACH;
- enforcement of REACH Article 5; and
- application of REACH to private persons

The Commission welcomed the communication in June on analytical methods and the compilation of methods relevant to restrictions. The Commission shared most of the Forum's conclusions e.g. that an analytical method for every restriction was not necessary. The Commission would reply to the Forum once it had completed its discussion internally on those few points where its opinion differed; the Commission could not expand further on these points at this time.

In respect of Article 5, the Commission stated that it had been inspired by the Forum's discussions. Internal discussion continued in the Commission on the interpretation of this challenging Article and it would be some months before an official response. The Chairman sought clarification on whether the Commission expected anything more from the Forum. After an intensive debate, the Forum had identified Article 5 in the Forum's list of issues identified at the Community level requiring attention. The Commission replied that it would await the official position from the Forum then, given the legal nature of the issue, explore in which forums to discuss the matter. There will be an update on this issue at CARACAL.

Finally, concerning the Forum's communication in August on private persons, the Commission's view is that there is no possibility to exclude private persons from REACH (noting that REACH refers to natural persons, not private persons). That said, the Commission considered that REACH includes provisions that would make the obligations probably not applicable to private persons.

The Chairman thanked the Commission for its contribution to the meeting and expressed satisfaction that the Commission was positive toward the work of the Forum.

d) Modification of the EU legislation
The Commission explained the normal legislative procedure(s) to amend the main text (the enacting terms – the Articles) and the Annexes of REACH. The enacting terms are amended by the "ordinary legislative procedure" (OLP), formerly known as co-decision. The REACH Annexes set timelines for their review by the Commission but they can also be amended to take account of technical progress. The presentation illustrated the many steps and actors involved in the ordinary legislative procedure for which the average timescale for adoption of a text used to be 15 to 43 months.

An edit step exists before the Commission can consider amendment by ordinary legislative procedure. In the context of enforcement, this involves bringing a specific issue before the Forum which could develop its own solution and/ or guidance. In the absence of a solution, the relevant Commission services can consult CARACAL and develop a proposal from which an official Commission interpretation or ECHA guidance can then be produced. Only if no solution is found can the Commission consider a legislative proposal via ordinary legislative procedure.

In the Commission's opinion, amending the text should not be a primary focus. The Forum should discuss issues relating predominantly to enforcement and the tools available to better enforce REACH e.g. HelpNet.

For the Annexes, Article 138 of REACH is relevant. The review process is internal and the proposed amended text submitted to the "regulatory procedure with scrutiny" (previously known as comitology). The presentation illustrated the many stages and actors involved in that lengthy procedure.

Finally, there is an interinstitutional arrangement with the Secretariat-General. Once an amendment to an enacting term is adopted, the review of annexes then follows a simplified procedure of "implementing acts" or "delegated acts", not the "regulatory procedure with scrutiny".

To conclude, the Commission restated that amendment of REACH is a lengthy and uncertain process. Consequently, the Forum, and others, should use the current tools to their maximum potential to address issues of enforcement in an efficient way.

The Chairman thanked the Commission for illustrating the complexities surrounding change to the REACH legislation. Whilst the Forum might think of solutions other than legislative amendment, this will not always be the case as exemplified by the important issues the Forum had already raised at Community level.

The Chairman invited comments from the plenary.

Mr Herdina (ECHA) understood the Commission's statement that the procedure for legislative change is complex and lengthy and hence there is a need to look for pragmatic solutions within the existing law. However, in the review process, suggestions for amendment do have their place.

The Chairman sought clarification on a statement that the Forum should restrict its questions and discussion to enforcement issues and not scope, technical or legal matters. The Forum had identified already important issues on scope related to waste and the Chemical Agents Directive and REACH. The Chairman added that the Forum and Secretariat had explored alternative methods before bring such issues before the Commission. The speaker explained that the Commission sought information on issues that had a clear consequence for enforcement authorities and enforcement. The Commission restated that it was very happy with the work being done by the Forum and acknowledged its obligation to report problems on the enforcement of REACH. The Commission suggested that a mechanism for discussing specific topics in-depth with the Forum would be beneficial.

Item 4 – Appointment / renewal of Forum members

a) State of play with appointment / renewal of Forum membership

ECHA informed the Forum about the process and timetable for the appointment or renewal of the 16 members whose 3 year term of office ended on 10 December 2010. The Executive Director had written to the Member State Permanent Representation in mid-September to invite the official appointment of the Forum member for a new term. The written responses were expected by 15 November 2010. Forum members should have received this correspondence and a background document on the Forum's tasks and responsibilities, in copy.

Both ECHA and the Chairman acknowledged the potential impact of this renewal process on the Chair and memberships of the Forum's working groups. The Chairman encouraged those Forum members who will continue beyond December to step forward and assist the working groups in this transitional period so that the Forum would continue to deliver its Work Programme.

The Chairman informed the Forum that both he and the vice-Chairman (the Netherlands) will not continue as members beyond 10 December 2010. In consequence, the Forum will need to elect members to these 2 posts at Forum-9. The Chairman invited members to consider nominating themselves or another member for these roles.

Item 5 – Directors' Contact Group (DCG)

a) Feedback from Forum consultation

Mr Herdina (ECHA) introduced Laura Walin as the assistant to Andreas Herdina and Christel Musset, the 2 sherpas to the Executive Director for DCG.

Created at the start of 2010, the DCG allowed the Commission, ECHA and industry stakeholders to identify, and establish solutions to, issues of concern. Twenty eight issues and solutions had been identified, 7 of them were classified as priority issues. Some simply stated what ECHA has made available to duty holders e.g. via guidance and IT tools such as CHESAR.

ECHA then summarised the DCG's consultation process since May 2010 which involved both CARACAL and the Forum. CARACAL's main comments concerned the distribution of competencies between ECHA and Member State competent authorities and the role of enforcement in registration. The competent authorities saw decisions on registration as a matter between the registrant and ECHA. The Forum's reaction focused on:

- ECHA setting up procedures to circulate information on its decisions;
- DCG's solutions not prejudicing enforcement by the Member State;
- enforcement authorities can still choose to inspect a company within any deadline set; and
- that enforcement authorities are informed in parallel with Member State competent authorities when updates are not submitted within the deadline e.g. to help inspection planning.

The DCG met downstream user associations on 27 September. The DCG meets next on 22 October. Its mandate runs until March 2011 at which time conclusion and recommendations from its work would be prepared in readiness for the next REACH deadline.

The DCG discussed enforcement at its meeting on 17 September. DCG did not want to duplicate work on-going by the Forum. Nevertheless the sherpa group had been tasked to think about a mechanism by which industry can give feedback on how

enforcement was being implemented in a harmonised, proportionate & dissuasive way in the EU-EEA; no mechanism had yet been established.

Mr Herdina then summarised another DCG activity, monitoring the preparedness of industry. ECHA expected 4500 substance registrations and 38000 dossier submissions. Via its website and through direct contact, ECHA has appealed to manufacturers' and downstream users' associations to activate their members. Forty percent of Lead Registrants remained unknown to ECHA. ECHA could not say if this would present a difficulty at the registration phase; industry suggested not. Indeed lead registrants had no legal obligation to tell ECHA. ECHA will publish a list of registered substances before end October and updated this list regularly.

To conclude, Mr Herdina then explained how the DCG had communicated its work through briefings and documents to the ECHA Management Board, Helpnet, Forum, industry and others. The list of 28 solutions were published on ECHA's website on 22 September, and for those solutions where a registrant finds itself in the exceptional situation, the website offered the web form and contact point in ECHA to submit their information. Both CARACAL and Forum consultations had established that ECHA will be the point of contact on registrations for a company who found itself in one of the 5 published exceptional situations.

A speaker from *Directorate of Registration and IT Tools*, the contact point in ECHA for registrants submitting dossiers in exceptional circumstances then gave information on the 8 scenarios foreseen, the documentation required from companies and the consequences for them:

- *Completeness of dossiers*: Scenario that an importer has difficulty obtaining the analytical information on the substances in a mixture from a non-EU supplier. It is possible for them to derive it from the mixture itself. However, importer must provide name and concentration of all substances and document why unable to supply the analytical data for each substance. ECHA may assess their scientific justification and documentation at the compliance check. Another scenario is that the test is on-going at time of submission. ECHA did alert industry earlier in the year to finalise the lead dossier at least two months before registration deadline, i.e. 30 September 2010. Therefore any missing test should have been commissioned by then at the latest. One valid reason for a late registration might be that the company learnt from ECHA published data on intermediates in June that it must submit a full registration dossier. Nevertheless, a company must still document effectively why tests are not completed sooner. ECHA will take the justification and documentation provided into account when setting a reasonable deadline under REACH Article 20(2) for registrants to complete their dossier;
- *Legal entity check*: For example, a company split or transfer of assets at a late stage may lead to a situation where one or more legal entities cannot late pre-register but must register immediately. Practical solution that company informs ECHA and is put in contact with lead registrant and SIEF. The solution differed from the others as there is no basis for a decision according to Article 20(2). However, the web form enabled a company to provide documents and justification on their situation. If company is subsequently subject to inspection, it can provide evidence of their enquiry to ECHA about their situation for the enforcement authority to consider;
- *Dependency on the lead registrant*: Scenario that lead registrant fails either to submit a lead dossier or fails the technical completeness check on its lead dossier due to e.g. disappearing from the market; this has a direct impact on the members on a SIEF. The solution is to find a new lead registrant for the

submission. ECHA would resolve any technical issues in REACH-IT and the new lead registrant resubmits dossier on behalf of SIEF members. If necessary, ECHA will take this exceptional situation into account if dossier found incomplete. However, not a solution to those companies who have not paid attention to their SIEF work. The preparation for registration is a joint effort in a SIEF, and its members must have documents to demonstrate their active involvement;

- *SIEF without an EU manufacturer:* Scenario, an EU company relies upon a non-EU supplier for its substance(s); the only representative or importer to submit a registration – this does not happen. In consequence, late in the calendar for registration, the company must become immediately the importer and registrant itself in order to keep the substance(s) available to it. If a REACH compliant dossier cannot be submitted due to these unexpected circumstances, the company should contact ECHA via the ECHA Helpdesk as soon as they become aware of the situation.

Helpnet members received training on the 28 solutions and notices in September. ECHA did not envisage any special activity on them but inspectors should know they exist in case they discover companies holding such notices; it remains the discretion of the national enforcement systems and their policies on what action to take.

Forum members (Germany, Hungary, Denmark) expressed concern over the legal status of the DCG papers. Mr Herdina reiterated that REACH is the binding text. The DCG's work had allowed concerns and misunderstandings from industry to be aired and some solutions to specific (even hypothetical) exceptional situations to be put forward as a contingency. The solutions did not represent an extension to the legal registration deadline. To avoid misuse, ECHA will demand documentary evidence before any registrant can access the portal, and even then, a favourable outcome for the registrant was not guaranteed.

France stated that their Ministry of Sustainable Development had had to issue a press release on the DCG solutions in the wake of ECHA's, to counter misleading publicity about the registration deadline.

Responding to a question about whether the national enforcement authorities would have a role in verifying, for ECHA, the information submitted by companies, Mr Herdina explained that CARACAL had clearly articulated that registration was a matter between ECHA and the registrant, it was not the task of the enforcement authority.

The UK wanted to know how the system will work in practice given that registration involved an automated technical completeness check; how could ECHA intervene in practice? ECHA confirmed that if a registration dossier is not complete it will fail the completeness check and the registrant then has one more opportunity to complete their dossier; however, in cases of failure, ECHA retains the option to intervene manually. Mr Herdina reminded the Forum that REACH also required companies to update their dossiers permanently e.g. when new information about a substance became available.

Sweden asked about the kind of documentation ECHA sought as justification, and what checks it will do on them. ECHA responded that their legal section had identified the key documentation for each issue to determine if a company qualified or not. In addition, a number of barriers were in place to prevent misuse.

Austria sought information on what the actual outcomes from ECHA will look like; this information would help inspectors to determine what might be true or false in their inspection of companies. What, in practical terms, was the end result once a company had claimed successfully an exceptional case? In practical terms, Christel Musset (ECHA) said that a registrant would receive an enquiry number, which together with the related documentation and justification should be available to an inspector, as a demonstration of diligence by the company. This same information must be submitted to ECHA when the company makes its registration by the registration deadline. ECHA's priority is to support the registrant to submit a dossier.

The Chairman concluded the discussion thus:

- The Forum was reassured by ECHA's explanation that national enforcement authorities are not bound by the DCG's solutions and notes that REACH Article 20(2) allows ECHA to set a reasonable deadline for registrant to complete their registration dossier;
- The Forum took reassurance from ECHA's statements that it has been informed about, not endorsed, the solutions, and that the caveats said clearly that enforcement authorities retained their freedom in decisions on enforcement action;
- For the DCG's solutions to operate correctly, a company must demonstrate itself diligent. Nevertheless, the enforcement authority will reserve the right to enforce their laws at national level.

Item 6 – Working Group reports

a) Cooperation with customs

The Working Group Chair gave the progress report, *ECHA/Forum-8/2010/02*.

After Forum-7, the Working Group had consulted the Commission on questions concerning the interaction of REACH/CLP, AMS and the Community Customs' Code. The response, received on 28 September, had not allowed sufficient time to prepare a considered view for Forum-8; consequently the Chair asked for the Group's mandate to be prolonged until Forum-9 to complete their task.

The Commission added that their discussion on this area continued. The next CARACAL will discuss the interpretation of REACH Article 2(1)(b) which exempts certain custom operations from REACH and this interpretation will impact on the Forum Working Group. More generally, the Commission advised the Forum to think carefully about its work, and not get drawn into the interpretation of the legal text; this is the role of the Commission but it can take time. The Commission suggested that the Forum might not need a definitive legal decision of a specific Article to develop the line, with realistic ambitions, of a particular enforcement project.

France sought clarification on the Commission's answers concerning the empowerment of customs authorities, and REACH Article 2(1)(b). Responding, the Commission confirmed its 2 answers: firstly, that a customs authority can be empowered for REACH but this would be a matter for a Member State, and secondly, that the detail on the exemption under Article 2(1)(b) is being discussed at CARACAL; this discussion continues. However, the 2 answers were not contradictory.

The Chairman thanked the Commission for its input and asked that the CARACAL paper on the Article 2(1)(b) exemption be shared with the Forum's Working Group, and more widely to Forum members.

The Forum agreed to extend the Working Group's mandate to Forum-9.

b) Preparation of the Forum enforcement project 2010/2011

Final report from the WG Chair

The Working Group Chair gave the progress report, *ECHA/Forum-8/2010/0*3. The main goal had been to develop the guidance to accompany the Forum's second coordinated project on the obligation of downstream users – formulators of mixtures – to comply with some of the essential requirements of the REACH and CLP Regulations (e.g. information in the supply chain, and notification). Since Forum-7, members and appointed national coordinators for the project had been consulted on a project Manual. This included a questionnaire for use during inspection and for data collection. The Manual took into account the results of the Forum's first project REACH-EN-FORCE 1 and the Forum's guideline *Strategies for enforcement of Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)*. It provided advice to national enforcement authorities on project implementation, the selection of formulators for inspection, corrective actions for non-compliance, and communication e.g. between national authorities at national and at Member State level.

After Forum-8, the timeline envisaged is:

- ***Preparatory phase***: October 2010 to April 2011. To include training for national coordinators and their inspectors. The Working Group proposed that this training coincide with that planned on CLP, so that the national coordinators would benefit from that information;
- ***Operational phase***: May 2011 to December 2011; and
- ***Reporting phase***: January 2012 to June 2012. The duration of this phase takes account of lessons learnt during REACH-EN-FORCE 1.

Translation of the Manual is foreseen as part of the preparatory phase according to a request made by Germany and other Member States..

Finally, the Working Group recommended the creation of a new Group to oversee the project's implementation, data collection and analysis. The establishment of some performance criteria was also foreseen to aid the evaluation of future Forum projects. No decision on these criteria had been taken but classical ones such as the number of member States participating, number of companies inspected, number and type of enforcement actions taken were candidates. The Working Group was open to advice from other organisations e.g. IMPEL on the type of indicators to support project evaluation.

Late comments on the draft Manual were circulated as *Room Document 7*.

The Chairman invited reaction from the members. In the discussion that followed, members raised points on:

- The scope of the project and obligations outside the scope e.g. labelling of mixtures, information upwards in the supply chain;
- Selection of target enterprises and sectors for inspection;
- Enforcement of Article 5;
- Desk-based inspection of certain aspects e.g. safety data sheets, rather than on-site inspection for every aspect

Responding, the Working Group Chair stated that the transitional entry of certain REACH/ CLP obligations had influenced the choice of the obligations selected for the project. The verification of some elements did require inspection on-site. Furthermore, the Manual did not specify which sectors to target; this allowed Member States the flexibility to target their project to suit national priorities and intelligence. The Chairman remarked that participating countries could choose to broaden the scope to suit their national priorities but not report these findings to project team.

The Secretariat confirmed 23 nominations for national coordinators. Members who had not yet nominated their coordinators were invited to do so. The Secretariat confirmed that experts on CLP from ECHA's guidance team had offered to participate in the preparations for this training to share their experience.

To conclude, the Chairman invited the Forum to adopt the progress report and project Manual. The Chairman asked members to confirm in writing those comments made at the plenary on which clarification was sought for the Working Group to act on before producing the final version. The progress report and Manual were adopted with comments.

(c)(a) Access by inspectors to data from REACH-IT
The Working Group Chair gave the progress report, *ECHA/Forum-8/2010/04*.

In July, the Working Group commented on the revised RIPE security recommendations; a key aspect was the terminology now used by ECHA - recommendation rather than requirement. In mid-October, the Working Group received a further revision to these security recommendations. Each Member State must now nominate at least one RIPE administrator as a gatekeeper to this IT system for all their national enforcement authorities. The Working Group proposed that these authorities should attest that they accept their responsibilities in respect of RIPE access and the implementation of the security recommendations. In case of a security breach, the RIPE Administrator will take the necessary steps to manage access controls accordingly.

The Working Group has sought clarification from SON and/ or ECHA on certain technical specifications such as the conditions under which portable computers and peripheral IT equipment e.g. printers, can be used, protected networks and firewall(s) to assure security in data transmission.

The Working Group will continue to provide input to the development, implementation and testing of RIPE. The Group meets next at the end of November once the first version RIPE is released. Testing is anticipated during January to March 2011 after which a user manual and training for RIPE users will follow (April – May 2011). Delivery of RIPE in Member States is nominally scheduled for June 2011.

(c)(b) Security recommendations for Member States concerning access to RIPE
The Forum Secretariat (Maciej Baranski) then expanded on a number of points:

(i) *RIPE project progress*. Since May 2010, ECHA has finished the procurement of the developer. The IT architecture was finished and development began in mid-September. Launch of the core application with most functionalities was planned for end 2010. Login module, user interface on main page, and some standard reports on (pre)registration and basic company information were in progress. More complex standard reports on safety data sheets will then follow. Unit testing remained an on-going process. The Working Group will participate in a user test at the end of November and performance and security testing is scheduled for Spring 2011.

Tokens will be purchased early next year for delivery at a training event foreseen for RIPE Administrators and the end user support single point of contact (2 persons) in March 2011. The final release date will be May – June 2011; however, a risk exists with the delivery of the infrastructure to deploy the application but for now, its impact is not known.

(ii) *RIPE Security recommendations*
Members were consulted in June 2010. Twenty one responses were received, mostly positive; see *ECHA/Forum-8/2010/05*. Concerning the potential requirement for a declaration ('attestation') signed by a national enforcement authority for the benefit of their RIPE Administrator, ECHA's understanding of the comments received was that some kind of formal declaration for the RIPE Administrator would be beneficial. The RIPE Administrator is often located in a central function and would be reassured that national enforcement authorities in remote parts of a country are in line with ECHA's security recommendations before the Administrator grants them user access. ECHA welcomes feedback on how the Forum wants to proceed on the declaration e.g. an optional or compulsory declaration of compliance with the security requirements. Regarding the protection of shared printers and other office machines, ECHA meant that access to them is restricted from the general passer-by.

(iii) *Procedure for appointment of Member State RIPE Administrators*
Two roles were foreseen: Firstly, the RIPE Administrator (and their back-up) located in one national authority; ECHA recommended the same authority that was already connected to ECHA as the establishment of a new VPN crypto-box is a lengthy process. Tasks foreseen for the RIPE Administrator include ensuring that user appointments/ declarations were documented correctly, creating user accounts, providing support at a local level to valid users, adhering to the security recommendations and organising training on security, reporting any security breaches to ECHA. Secondly, the end user support single point of contact (SPOC). Examples of their responsibilities included training users and handling RIPE-related questions and its application. The RIPE manuals will be published on the CIRCA section for ECHA's IT tools.

To conclude ECHA explained the appointment process. Member States were free to choose the location of RIPE Administrator. ECHA invited the Forum members and their SON members to initiate the appointment in an appropriate manner in their country. The "appointment letter" giving the procedure and background information on roles and responsibilities and other considerations was being drafted by ECHA. Once dispatched, ECHA expects a formal response from the relevant national authorities to the letter of appointment by the end of January 2011.

The Forum discussion that followed concentrated on the issue of the attestation procedure and whether members considered it desirable or not. Diverging views were expressed. The Forum Secretariat confirmed that SON had not expressed any disagreement to the proposed security recommendations. However some Forum members felt SON the more appropriate decision-making body. To conclude, the Chairman proposed that due to the conflicting views, and the fact that a decision is required by the time of RIPE's release, the Forum will consult SON again, then ask Forum members to give their views on the preferred option so that the Forum could then make a decision based on the majority view.

d) Forum Activities on CLP enforcement

The Working Group Chair gave a progress report, *Room document 02*.

The Group's mandate was given at Forum-7 and its objectives, in general terms, were to identify the activities that the Forum should undertake in the context of the CLP Regulation, and to propose a revision to the Forum Work Programme. The Chair explained the approach taken to deliver their mandate. This involved:

- an analysis of answers to the Questionnaire on the status of implementation of the CLP provisions;
- proposals for key Articles to be taken into account in a future common Forum enforcement strategy on CLP Regulation (principally Articles 4 and 40);
- a review of information materials available from Member States on CLP;
- producing a draft plan of Forum activities based on the CLP Regulation and a description of the activities and tools needed by the Forum;
- the selection of key Forum documents to identify where gaps existed, or amendments were required, on planning and organisation for CLP enforcement and to draft amendments to these texts. Three annexes to *Room Document 02* contained these drafts which also identified areas for further consideration. The documents selected dealt with:
    a. strategies for enforcement of REACH;
    b. minimum criteria for REACH inspections;
    c. criteria for the prioritisation of FORUM coordinated projects; and
- examining the current Forum Work Programme 2008-2010 and to suggest priorities on CLP for the new Work Programme 2011-2013.

The preliminary conclusions of the Working Group were set out in *Room document 02*. The Working Group Chair invited feedback from members on these proposals. Moreover, a lot of action points were identified and the Chair proposed an extension of the Working Group's mandate until Forum-9 in order to provide a final recommendation.

The Chairman congratulated the Working Group for its comprehensive work. Given that the Working Group's report was a Room Document and that the amended texts required more consideration from members, the Chairman directed that these texts were not for adoption at Forum-8. The Chairman then invited feedback from the members.

In the subsequent discussion, Forum members made the following points:

- the Forum agreed to review its guidelines on strategies for enforcement of REACH and minimum criteria for REACH inspections in 2010;
- these 2 documents would benefit from a more general review;
- common interests existed with the Working Group on *Training for trainers on CLP enforcement*. These should be reflected in any future work by the Group. The Working Group Chairs agreed to liaise accordingly.

Commission services expressed satisfaction with the preliminary work done and intention to integrate CLP into the Forum's guidelines on REACH; indeed the Forum's next enforcement project, REACH-EN-FORCE 2 contained aspects of both REACH and CLP. The Commission welcomed future opportunities to contribute to this literary review.

To conclude, the Chairman considered it an ideal time to retask the Working Group with a broader revision of the Forum Work Programme (not just CLP) and to draft the next Work Programme for 2011 to 2013 in which the priorities now identified by the Group on CLP will feature.

e) *Training for trainers on CLP enforcement*

The Working Group Chair gave the progress report, *ECHA/Forum-8/2010/06.*

The Working Group was established at Forum-7 with the objective to prepare and deliver the training for trainers on the enforcement of the CLP Regulation. More specifically:

- to prepare the agenda of a training event;
- to prepare the necessary material for the training e.g. presentations or documents;
- to deliver the training event with support from Forum members, as necessary;
- to collect and summarise the feedback of participants; and
- to formulate recommendations for future trainings.

The Chair thanked Forum members for providing the Working Group with examples of their national training materials. When developing the programme, the Working Group will take account of lessons learnt from the previous training on REACH, e.g. more time given to practical case studies. The next milestones were identified as:

- Member States to appoint their training participants by 22 October 2010;
- draft training programme and content circulated to Forum members for comment via written procedure by 22 December 2010;
- scheduled date for training event is 25 January 2011 (back to back with training for REACH-EN-FORCE 2 and national coordinators);
- Working Group report to Forum-9 with an evaluation and recommendations for future training.

The Chairman thanked the Working Group for its preparations so far. In the Forum's feedback that followed, Germany confirmed their expert to the Working Group and enquired if ECHA will translate the training materials into national languages. The Secretariat responded that the translation of any materials would have to be done by the Member States.

f) *Summary of Forum activity on restrictions dossiers*

The Working Group Chair gave the progress report, *ECHA/Forum-8/2010/13.*

The Working Group Chair reminded Forum members about the mandate of the Group and it principal objective - to facilitate the elaboration of the Forum advice on enforceability of restrictions, and how it approached its work i.e. checklists, Activity Plans and timetables, a lead person for each dossier and so on. Since Forum-7, the following 6 proposals for restriction had been received, and Forum advices had been adopted by written procedure or are in preparation:

- DMFu *(adopted)*
- Lead in jewellery *(adopted)*
- Acrylamide *(adopted)*
- Cadmium *(in preparation)*
- Mercury *(in preparation)*
- Phenylmercury compounds *(in preparation)*

After 6 dossiers, the Working Group recommended that the Forum evaluate the process for developing its advice. Annex II to the progress report was a discussion paper to launch a debate to improve the work of the Working Group based on experience gained so far. It provided ideas grouped into areas that the Working

Group thought essential to improve the Forum's output: format/ structure, headings, length, clear wording/ definitions to avoid misunderstanding on interpretation or context, scope, analytical methods, sampling methods, and limit values. The Working Group Chair invited feedback and guidance from Forum members by 6 November 2010 on these points and how to proceed. The Group meets next on 1 December to discuss the Forum's feedback.

The Chairman thanked the Working Group for its work, and also Forum Members and the Commission for their comments, and repeated the Chair of the Working Group's call for feedback to help it and the Forum take this important and on-going activity forward.

Item 8 – Enforceability of restrictions

a) *State of play with the on-going restriction proposals*

ECHA (Elina Karhu) provided information on the current dossiers, the timeline and activity for the April and June dossiers, and the details on the rapporteurs for the June dossiers.

No new dossiers had been published in the registry of intentions (RoI). To help the planning process and work of the various actors (Committees, Forum etc), ECHA and Member States have now agreed to submit dossiers on 4 specified "submission dates" per year. ECHA has asked Member States to indicate which submission dates will most likely be used. ECHA acknowledged the challenge for the Forum to deliver its advices within the timetable given and appreciated its response on past dossiers. The legal text dictates the timeline. The key trigger is the start date of the public consultation which defines all other deadlines in the legal text. ECHA has tried to promote early response to consultation to aid the collection and processing of comments.

ECHA then explained the principal stages and deadlines for the 2 April dossiers (DMFu & lead in jewellery) and its potential implications for the Forum. The dossier submitter (France), RAC and SEAC rapporteurs were currently reflecting on the Forum's advices and other comments. ECHA emphasised that enforceability was one of the main criteria in REACH Annex XV against which proposals are assessed. Hence, early Forum advice was important to the RAC and SEAC opinion-forming processes. ECHA explained that opportunities for further Forum advice did exist at second and third consultation stages if important changes in the formulation of the restriction proposal had been made; this offered an opportunity to capture any Forum comment that may not have been fully reflected in the first advice.

RAC and SEAC had appreciated the Forum's advice as well as their contribution to the first dialogue meetings. ECHA acknowledged that Forum participation in such dialogues did depend on the timeline and personal availability but a range of methods for participation were possible. In this respect, ECHA confirmed that a second dialogue meeting on DMFu and lead in jewellery was scheduled for 25 October 2010 to which a Forum Working Group member might participate if requested by the rapporteur(s).

For the June dossiers (on mercury in measuring devices and phenylmercury compounds), ECHA summarised the rationale behind these 2 proposals. A restriction already existed for mercury thermometers and other devices intended for public use. A review was now necessary to take account of technical progress in respect of devices for professional and industrial uses and alternatives to mercury; the Commission has asked ECHA to prepare a report. Norway had introduced the dossier on phenylmercury compounds as part of a wider European initiative to

reduce mercury in society. ECHA then projected the timeline for the June dossiers with the key target dates for the Committees and Forum.

b) *Comments on restrictions from the Commission*
The Commission services gave feedback on its recent activity in the field of restrictions, and responses to specific questions from the Forum on accredited laboratories and the Commission's FAQs webpage on restrictions.

The Commission was currently discussing the next steps for 2 pending restrictions i.e. restriction proposals originating from the pre-REACH legislation on new CMRs and 1,4 dichlorobenzene (DCB); the Forum would learn the outcome in due course.

The Commission then provided detailed feedback from the REACH Committee's decision on acrylamide and the constructive comments provided in time by the Forum. The REACH Committee had voted in favour of the restriction proposal for grouting applications and now the process to draft the legal text begins for adoption in early 2011 and entry into force by mid-2012.

- The Forum's advice was received 3 days before the REACH Committee's meeting. The Commission welcomed the advice and highly appreciated the Forum's reaction to a very tight timescale to respond. The Commission sent the advice to the REACH Committee and it triggered some serious discussions.

In September, the Forum Secretariat wrote to the Commission for a list of accredited laboratories for restrictions in the Member States. The Commission services had researched this but it does not hold such a list. In principle, accreditation schemes are administered by international/ national organisations. Therefore, the Commission suggested members consult their national accreditation bodies for this information.

Finally, the Commission provided the web link to its FAQs on (past) restrictions:

http://ec.europa.eu/enterprise/sectors/chemicals/reach/restrictions/index_en.htm

The Chairman thanked ECHA and the Commission for their contributions and positive feedback on the Forum's first advices. Members were then invited to comment.

The Chairman proposed that the point made about the restriction covering intended uses for which the substance is placed on the market be considered further by the Working Group since this was a feature common to many restriction proposals.

Item 9 – Electronic information exchange procedure
a) *Briefing from ECHA*
The Forum Secretariat provided an update since Forum-7 when the majority view had been to expand RIPE with new functionalities (RIPEx). However ECHA still needs to investigate the advantages and disadvantages of the range of systems available (ICSMS, RIPEx, others) before making a final decision. As a consequence, an interim procedure is required to enable inspectors to exchange information securely once RIPE is released.

The Forum Working Group on EIES has provided the type of information and data fields required. More information is now required on the functionalities e.g. discussion forum, structure of information flows etc. to allow ECHA to prepare a fair and comprehensive assessment of all the candidate systems. After consulting the

Forum, the options will be submitted to the ECHA Directors' Programme Board for a decision; the projected timetable for a decision is Forum-10.

Meanwhile ECHA proposes a short term solution via a number of instructions to enable inspectors exchange the information securely with immediate effect.

The Commission welcomed the investigation of a short term solution and stressed the importance of making a decision soon to enable enforcement authorities to start to share information.

ECHA then presented their ideas and specification for a short term solution covering the encryption of emails and files, password storage and generation, and disposal. The presentation then covered current good practice for readily available, cost effective and supported software which may be known to many IT administrators in members' organisations. ECHA would provide technical and user instructions.

In terms of moving forward, the Chairman proposed that the Forum members explore with their home departments whether the "temporary requirements" now suggested are feasible to enable the exchange of information securely between Forum members.

Item 10 – Practical issues for enforcement

a) *Issues on data-sharing & registration*

The presentation reviewed the important provisions in REACH, and in particular Article 30(3). The principal objectives of the data sharing provisions concerned improving the efficiency of the registration process and reduction of costs and testing on vertebrate animals. REACH had introduced the remedy to contact ECHA to resolve a dispute, the outcome of which was an area for communication between ECHA and the enforcement authorities.

The principal duties lay with the registrants as set out in Article 30. ECHA is only involved in cases of failure to reach an agreement. ECHA's procedures promote the principles of sharing data to avoid unjustified claims. ECHA will not examine the costs involved and whether tests are necessary – these were matters for the parties to agree upon.

ECHA anticipates that some data-sharing discussions in SIEFs will, if they remain unresolved even close to the registration deadline, lead to disputes according to Article 30(3) of REACH. The disputes may put SIEF members in a position where they may need to inform ECHA of their inability to share the data as per their legal requirements, and consequently to submit a dossier which does not fulfil all information requirements.

The speaker then explained the stages and timetable within a SIEF and an outline of the steps in a data sharing dispute which involve an ECHA contradictory assessment.

ECHA will process the data sharing disputes as implemented by their Services and may take a decision according to Article 30(3) of the REACH Regulation, granting the registrant a permission to refer to the data. The consequences for the data owner who refused to share the data are described in Article 30(6): "The owner of the study who has refused […] shall be penalised in accordance to Article 126".

The outcome of ECHA's decision is sent to the plaintiff but as good practice sent also to the other party.

Hence, as result of data sharing dispute, ECHA will need to notify the respective national enforcement authority/authorities (NEAs) of their decision, so that the effects described in Article 30(6) can take place. Based on the information received from ECHA, the national enforcement authorities may decide to follow up by a penalisation [by the national enforcement authority] according to Article 126. In ECHA's opinion, once it had communicated its decision to the plaintiff, ECHA's role was finished, and any follow on actions then resided with the national enforcement authorities.

As a default mechanism ECHA propose that the Forum members would be the contact point to ensure an appropriate further treatment and/or forwarding of the respective information. The number of cases at this moment were few but increasing.

The Chairman noted that Article 30(6) was written in terms of "shall" i.e. an obligation on Member State. The issue for the Forum was how to communicate this information to the national enforcement authority(ies) in the Member State who are many in number and better known to the Forum member than ECHA. The Chairman proposed that in first instance, ECHA contacts the Forum member who then passes the information on to the relevant national contact in the relevant national enforcement authority.
ECHA stated that it wanted feedback from Member States on action taken following its decisions, as this could have an impact on what information ECHA can provide. Equally, it was important for ECHA to know what were the information needs of enforcement authorities for them to do their work. ECHA agreed that an information exchange mechanism was required.

In summarising, the Chairman concluded that the Forum accepted that, in principle, the members would act as first point of contact and take forward official correspondence, or tell ECHA who in their Member State to contact so that ECHA can communicate directly.

b) *Items raised by members*

ECHA/Forum-8/2010/08

The Chairman explained that 25 issues had been received. This amount was too large to deal with at Forum-8. Consequently, the issues had been divided across 3 tables.
Table A will be addressed at Forum-8. If time permits, issues in Table B will be addressed (or carried over to Forum-9). Those items in Table C are dealt with in other agenda points at Forum-8.

1) "Sale from stock"
The UK invited members' opinions on the legality of supplying substances that have been pre-registered but not registered in full, after their registration deadline has passed i.e. "sale from stock". The UK view was that supply of correctly pre-registered stock can continue provided that a supplier can demonstrate the stock supplied was the pre-registered stock.

The Commission responded that a draft paper on this subject "substance in stock" was scheduled for discussion at the next CARACAL; the Commission agreed to forward the document to the Forum but further discussion beyond the next CARACAL may be required before final clarification and adoption. Members agreed not to discuss this issue further at the meeting, given the forthcoming discussion at CARACAL.

2) Proof of an exemption under Annex V
Ireland sought members' views on the case where a company has claimed an exemption from registration under Annex V (especially for a natural substance); what documentation must an inspector request to prove that the substance is indeed exempt from registration?

From the discussion, the Chairman concluded that process-based documentation from a company was a sensible part of a solution; the documents will differ depending on the exemption and circumstances. It may be useful to consider industry prepared guidance e.g. some industry stakeholder organisations may offer information relevant to this issue.

3) *Only representatives*
The Netherlands raised the issue that an *only representative* can act on behalf of an importer in the EU under the REACH Regulation but cannot take on that same role under the CLP Regulation. A solution to this fact (involving the OR importing small samples of substances) had been published on ECHA's web site but the Netherlands questioned the feasibility of it given that, in the Netherlands at least, there are only representatives acting for many thousands of substances.

Germany suggested that an *only representative* become a legal representative for an importer and then make the CLP notification.

Responding, the Commission services agreed to consult internally and reply.

To conclude, the Chairman acknowledged that Germany's legal solution was worth considering but suggested that the Forum await the Commission's response. If no suitable answer will be identified, then this issue will be another that the Forum has to identify at Community level for attention. The Chairman proposed the Forum to review the matter at Forum-9.

4) *Definition: article versus preparation*
The Netherlands introduced the document from the European Welding Association (EWA) which requested a conclusive interpretation of REACH Regulation on solid welding wire and the definition, "article" or "preparation". The Netherlands added that subsequent information from the Dutch Helpdesk which said that the documents represented a common point of view in EWA excepting the association's Austrian member.

Cyprus, Norway and Germany all concluded that such issues needed to be examined on a case-by-case basis. Furthermore, Germany, Sweden and Bulgaria agreed with the UK that it was not the Forum's function. Germany and Sweden suggested that the HelpNet might be better positioned to provide guidance given their pool of experience. Sweden proposed that Forum members gather information from their national centres to put forward to HelpNet and ECHA's guidance team and create a two-way communication/ information flow.

ECHA confirmed that HelpNet had the means to discuss such issues. However, it was not the role of HelpNet nor the national Helpdesks to provide conclusions for industry. ECHA supported Sweden's suggestion to share information.

Summarising, the Chairman concluded that the members agreed that the Forum should not get involved in such decisions. These decisions were a matter for registrants to determine. However enforcement authorities can take account of (or challenge) industry's views on a particular issue as part of its own decision-making

process as inspectors. The Chairman agreed that bringing to future Forum meetings feedback on enforcement decisions made at the national level that may be contentious in nature was a worthwhile idea.

5) Format of labels

Denmark asked the question: "When is it allowed to use fold out labels or booklets?" At Forum-7, the ECHA Helpdesk had stated that is was allowed for booklets with several languages. However, the Danish legal advisers consider that the legal text only allows it for one language if the package is very small. This national view is at variance to the ECHA Helpdesk.

In the discussion that followed, no objections were raised by Forum members to Denmark's interpretation and solution. Denmark agreed to forward the Forum's conclusion to the ECHA Helpdesk.

On a general point, the Chairman proposed that Denmark's approach of providing a potential solution to an issue was a useful way of presenting the information to launch the Forum's discussion on a practical issue of enforcement at future Forum meetings.

6) REACH/ CLP Safety Data Sheets

Ireland raised three (3) questions concerning safety data sheets and the changes introduced by Regulation No. 453/2010 which take effect from 1 December 2010:

(i) The first issue was illustrated by a large multinational company that, in response to the change in legislation in May, is updating the software tool it used to prepare safety data sheets. However, the new software might not be in place by 1 December. In consequence, safety data sheets in the old format may still be produced from 1 December. What line should enforcement authorities take;

(ii) In addition, what line should enforcement authorities take when product labels display information that is different to the safety data sheets; and

(iii) For safety data sheets sent out to downstream users prior to 1 December 2010, there was a derogation until 2012 on the new format. What proof should enforcement authorities demand from companies to demonstrate that supply took place prior to December 2010?

The Chairman acknowledged that these enforcement-related questions arose from the complex transitional arrangements in CLP.

The Netherlands stated that similar questions had been raised by their stakeholders on the adaptation of safety data sheets within the timescales imposed and in consequence, a meeting between the competent authority, enforcement authority and industry was planned in near future.

Hungary confirmed similar discussions at national level recently

The Chairman summarised the discussion against the three points as follows:

(i) that enforcement of safety data sheets is closely related to the scope of REACH-EN-FORCE 2 and the issue should be considered further in the context of the forthcoming training. The Working Group can then update the Forum accordingly. Enforcement should be realistic and pragmatic during the complex transitional arrangements with the focus of enforcement action reflecting the need for provision of good quality

information to downstream users i.e. accurate information rather than the technical conformity to the legal text;

(ii) the Forum considers that the label and corresponding safety data sheet should contain the same information; and

(iii) the third issue was not fully answered, but there was an action on ECHA to clarify their existing advice on this issue.

7) *Safety data sheets*

France raised the question: "Who is responsible for the elaboration of a safety data sheet when an only representative is appointed?"

The French authority and French CEFIC (name UIC) has collaborated on a common document on safety data sheets. *A question arose on the responsibility of an only representative and on which there is a divergence of views*. France invited the Forum's opinion.

REACH requires every supplier in the supply chain to provide a safety data sheet to his recipient. What if the supplier does not provide the correct safety data sheet because it did not have the data since it did not elaborate the registration dossier. Do Forum members think the only representative, who is the person that receives the registration number and has the data, is also responsible for elaborating the safety data sheet?

Romania had identified an inconsistency between REACH and Regulation No.453/2010. More specifically, in REACH Article 8(2), the only representative shall comply with all other obligations under this [REACH] Regulation - this is a general statement. Then REACH states that the only representative will keep information on quantities imported, customers sold to and the latest safety data sheet; there is nothing about elaborating the safety data sheet itself. Also at REACH Article 31, the supplier of a substance/ preparation shall provide the safety data sheet in compliance with Annex II. In the present edition of Regulation No.453/2010 on Annex II, at section 1.3, the supplier is defined as the manufacturer, supplier, only representative, downstream user or distributor. This definition is not consistent with the definition of supplier in REACH Article 3. Also at section 1.3, "for registrants, the information shall be consistent with the information on the identity of the manufacturer or importer provided in the registration." The only representative is not mentioned. Consequently, Romania considered that the only representative had no obligation to elaborate the safety data sheet. This obligation lay in the chain of information supplied from manufacturer to importer because a safety data sheet must accompany the substance and the substance may have no physical relation to the only representative.

The Forum Secretariat reminded members that they had discussed something similar at Forum-7 in relation to the only representative and the supply of a safety data sheet according to REACH Article 31. The Secretariat had consulted ECHA's Legal Service and the (current) interpretation in the guidance on registration is that the only representative takes on all the responsibilities of the importer; so the obligation is on the only representative. (However, the Secretariat understood this interpretation was already being discussed with the Commission).

The Chairman referred back to France's enquiry that stated the text in Annex II of REACH does not explicitly mention the only representative, and pointed out that the amendments to Annex II made by Regulation No.453/2010 now mean that the only representative is mentioned explicitly. The UK, whilst acknowledging Romania's argument, believed that therefore the intention of the legislator is that the only

representative can be a person responsible for the provision of the safety data sheet. In addition, while REACH Article 31 does not refer to an importer but rather the supplier of a substance/ mixture, Article 3 (definition of supplier of a substance/mixture) includes an importer, and then via Article 8, the only representative, when appointed, effectively 'becomes' the importer under REACH. The Chairman acknowledged the point about the only representative being physically distant from the stock but so too could the importer. The safety data sheet needs to be provided but it does not have to physically accompany the substance; it can be provided electronically.

To summarise, the Chairman concluded that, subject to any new legal advice to the contrary, the only representative has a responsibility to provide the safety data sheet.

8) *Safety data sheets*
This issue, raised by Norway, had arisen at Forum-7 and concerned the obligation to supply a safety data sheet for substances on its own or in preparations/mixtures when it is imported in the Community in cases where an only representative has been appointed.

Norway confirmed that no further discussion was required given the response from the Forum Secretariat under the previous agenda item.

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9) *Safety data sheets*
Sweden posed the issue: "Shall a supplier of a substance or a mixture provide a safety data sheet to a retailer offering dangerous substances or mixtures to the general public?" Sweden had offered 2 alternatives for a solution.

The Forum agreed that, yes, according to Article 31.1, a supplier of a substance or a mixture shall provide a safety data sheet (SDS) to all recipients, including retailers offering dangerous substances or mixtures to the general public.

10 c) *Action in the Netherlands on intermediaries and Only Representatives*
The Netherlands presented the outcomes of 2 enforcement initiatives on: (i) only representatives, and (ii) pre-mixtures in the feed industry. The purpose of the presentations was to stimulate similar projects and a common approach in other Member States.

The only representative initiative began in 2009. Under REACH, without an only representative, it is not possible for a producer outside the European Union to register their products. When an only representative is appointed, the only representatives then takes on the registration responsibilities of importers under REACH, and those they represent become downstream users. The Forum received a briefing paper previously in which 4 criteria were examined in the project:

1. Record keeping system for quantities, uses and customers;
2. Complete list of customers in the supply chain of the non-EU manufacturer;
3. Yearly breakdown of customers; and
4. Information on the supply of the latest version of the safety data sheet.

Sixteen companies were selected from the Dutch pre-registration list for inspection. The results follow:

- 7 companies complied on all 4 criteria (in some cases, the only representative drew on specialist expertise available from the non-EU producers);

- 8 companies did not comply (*infringement proceedings now underway*);
    i. 2 companies did not comply with the administrative requirement (*administrative sanction applied*);
    ii. 1 company was appointed as an only representative incorrectly**;
    iii. 2 companies do not exist** i.e. no legal entity found or traced at the location given in the pre-registration); and
    iv. 3 companies did not comply with the requirements on safety data sheets.
- 1 company – inspection on-going.

Enforcement action is underway. In one case, the company has received an administrative financial penalty of 1 million euros per week. ** The Dutch competent authority has contacted ECHA to delete these companies' pre-registrations.

The initiative on pre-mixtures arose from information received about non-compliance in respect of classification and labelling and safety data sheets. Pre-mixtures are additives (vitamins and minerals) for the feed industry to be used in feed mills and are not distributed to the final user, the farmer. They are an intermediate and so REACH Article 31 applies.

Contact with the Dutch national stakeholders was initiated first, who informed the authorities of an EU implementation process started by the European bodies Fefana & Fefac (the paper is available to members on CIRCA) to achieve compliance in one year.

The Dutch authority then began an inspection programme on all (7) premix companies in the Netherlands. None were found to be in compliance with relevant requirements subject to inspection. The Dutch authority has imposed an infringement action for compliance within one year (to align with the EU agreement). In addition, there has been communication about the Dutch authority's work and a communication from the premix industry to their customers to explain the action taken and the potential hazards of these pre-mixtures. At present, the Dutch authority is halfway through re-inspecting the companies. So far, all have complied. One company however is challenging the legal basis of the approach. Another outcome is that the stakeholder organisations in the Netherlands and Belgium have come together to create a common database for their companies.

A general discussion followed. The Commission asked about the implications for a downstream user when the company itself, and hence a pre-registration, was not valid. The Netherlands recognised the problem for the downstream user but had no solution to offer as the enforcement authority does not know who are the customers of a non-existent, non-EU company. The competent authority has brought this issue to the attention of ECHA to determine if ECHA can make a communication to the companies affected by this change.

The Forum Secretariat asked if other Member States had taken action after the discovery of one particular 'ghost' only representative in the Netherlands that also had submitted pre-registrations in other Member States. Both UK and Germany confirmed follow up action with the outcome that the relevant pre-registrations had been communicated to ECHA and then deleted. Both the Chairman and Secretariat acknowledged this case as a good example of coordinated action by Member States which served to illustrate a joint, concerted initiative by Forum members.

The Chairman thanked the Netherlands for sharing its work. Whilst the Forum has a number of co-ordinated initiatives underway, the Chairman believed it would be highly valuable if those Member States conducting independent national enforcement projects gave information or presentations to the Forum. This could become a regular feature in future Forum agendas. The Chairman invited members to consider sharing their work and experience to benefit others.

d) *Status on pending (NONS) notifications*
See agenda item 14(f).

e) *Dossiers on chemical intermediates*
ECHA/Forum-8/2010 Room document 4

ECHA provided information on the outcome of its first screening activity on chemical intermediates. The speaker presented an overview of the relevant legal provisions, the outcome of ECHA's first screening on intermediate dossiers, and current ECHA activities.

The clarification on definition of intermediates was now published on ECHA's web site.

All 303 dossiers for on-site and transported intermediates that had passed the technical completeness check during the registration procedure at December 2009 were screened. The aim of the screening was to check at a very general level if these registrations really can be considered as intermediates, or if they include substances requiring a normal registration. The dossier header and various sections of the IUCLID dossier were examined e.g. guidance on safe use, exposure estimation.

Eight dossiers did not meet the requirements of intermediates by definition and 12 dossiers required more information. These 20 dossiers were taken forward to a formal compliance check during February to April 2010 against specified criteria for assessment.

ECHA has considered options for follow-up actions and divided the dossiers into 2 groups: (i) transported isolated intermediates and (ii) on-site isolated intermediates. The options considered included draft decisions, quality observation letters (with target response dates) and communicating to the Member State competent authorities (via CIRCA) ECHA's observations and letters sent to registrants.

Information on the outcome of ECHA' assessment was given on the 20 dossiers e.g. 12 quality observation letters sent with target dates for clarification of information; the first target dates are in October.

Information on progress was given to CARACAL in June. ECHA agreed to inform the Forum about its activities. (All) Member States received information via CIRCA on the quality observation letters and tabulated data on ECHA's communications to registrants, target dates for further information and their response on which Member States may take action accordingly e.g. site visits to verify use, risk management measures, strictly controlled conditions. Member States were invited to note ECHA's activity, to provide feedback and/or information on any follow-up action they take.

A second screening activity by ECHA has taken place since Summer 2010; this focused on 414 on-site and transported intermediates dossiers. The screening examined the definition of intermediates, and information provided on risk

management measures and use under strictly controlled conditions. The analysis and discussion on potential actions are still on-going in ECHA.

Finally, updated guidance on intermediates is due by the end of 2010 drawing upon the lessons learnt from ECHA's screening exercises, and the outcome of these evaluations will be included in an Article 54 report by ECHA. The findings have also been shared directly with industry at Stakeholder Days in May & October 2010.

To summarise, the Chairman thanked ECHA for sharing this information as a room document, and invited members to investigate the current situation in their Member State and report back on any enforcement action taken. The requirements of REACH Article 86 were also noted, in that Forum members were required to establish links with the competent authorities. The subject illustrated yet another area that the Forum needed to address as part of its work on borderlines between ECHA, Member State competent authorities, and enforcement authorities.

Item 11 – Update on relevant developments by ECHA

a) *Changes in ECHA's organisational structure*

ECHA/Forum-8/2010/09

Andreas Herdina (Director) explained the rationale behind ECHA's reorganisation from 1 January 2011. In 2011, ECHA's total staff will exceed 500 and the nature of its work will change. The main fields will focus on evaluating the in-coming dossiers. The Executive Director and Management Board have decided to restructure ECHA into 7 Directorates. This structure will include a new Directorate B on Regulatory Affairs to coordinate regulatory opinion and decision-making that flow from the dossier handling Units in the new Directorates C, D & E.

From 1 January 2011, the Committees Secretariats will move to Directorate B on Regulatory Affairs. The Forum Secretariat remains in Directorate A in a new Unit, Guidance and Forum Secretariat, as the Forum Secretariat is not large enough to be self-standing. The logic for the division in the Secretariats stems from the fact that Directorate B will coordinate the whole dossier throughput to which the Committees contribute. The Forum Secretariat has a different role. Directorate A manages a number of networks e.g. the Helpnet, and the Forum is type of network. Nevertheless, the interdependencies between the Secretariats on certain tasks such as restrictions is recognised.

An updated organisational chart which provides a fuller account on the new Units and contact points will be circulated in the New Year.

b) *ECHA's Work Programme 2011 adopted by the Management Board*

The Work Programme was based on the Multi-Annual Work Programme and was published on the ECHA website on 12 October 2010. The Programme was based on baseline assumptions and the number of dossiers expected (38000). It set out the aims and challenges for ECHA in 2011 under a series of 15 Activity headings.

The Work Programme of the European Chemicals Agency for 2011 can be found at -

http://echa.europa.eu/doc/about/organisation/mb/mb_48_2010_echa_work_programme_2011.pdf

c) *Update on developments in ECHA's guidance*

ECHA provided an update on guidance development, including the recent consultations on substances in articles, waste and recovered substances, exposure scenarios, and the guidance on safety data sheets, CLP criteria, and risk

communication. Timetables for the various consultees (partner expert group, ECHA Committees, CARACAL) were given. The moratorium on guidance was still in effect until November 2010 to allow industry to concentrate on preparing their registration dossiers. In 2011 ECHA will give preference to those guidance documents most relevant to the next deadlines. Subsequent updates to ECHA's guidance may trigger a need for companies to update their registration dossiers without undue delay. REACH Article 22 required such updates to take account of new information. The Forum will be consulted on the 2 publications on safety data sheets and CLP criteria by the year's end. In addition there are a series of Fact Sheets and Practical Guides (PGs) to improve access for industry, especially SMEs, including translation into national languages.

d) *Communications and the Forum*
Under the stewardship of ECHA's Communications Unit, the Forum members took part in a breakout session to gather ideas on what communications would support and improve the Forum and its tasks.

12 Cooperation with other networks
a) SLIC CHEMEX
The Secretariat provided a briefing on behalf of SLIC CHEMEX on two current projects relevant to chemicals legislation:

(i) an evaluation of a SLIC initiative from a 2007 survey of its members on the impact of REACH on occupational health and safety law and worker protection. One key finding was that not all labour inspectorates would be competent authorities for REACH. The Committee therefore published a document (in 22 languages) *A framework for an EU REACH enforcement model for national labour inspectorates* which contained guidance to help labour inspection services set up mechanisms with REACH competent authorities on, for example, defining roles, developing coordinated strategies and communication. CHEMEX will research the implementation of the framework since its adoption in 2008 and report on its findings in Spring 2011;

(ii) a European campaign by 26 Member States and Norway on risk assessment in the use of dangerous substances in the workplace. The objectives are to improve the ability of SMEs to carry out risk assessment and raise awareness on risk control measures. A campaign website provides brochures with good practice on risk control measures for the 4 target economic sectors; these also remind users where they can obtain information on the hazards and risks associated with the substances they use e.g. labels and safety data sheets. The campaign will conclude in 2011.

The Chairman proposed that members direct any questions on CHEMEX's reported work to their representative in writing.

b) IMPEL
Created in 1992, the IMPEL network of EU Member States, Norway, Iceland, Croatia, FyROM and Turkey concentrates on the implementation and enforcement of environmental law. Its main focus is the recommendation on minimum criteria for environmental inspection (RMCI) set out in European law. Its activities centre on 3 clusters: (i) better regulation, (ii) trans-frontier shipment of waste, and (iii) improving permitting, inspection and enforcement.

The IMPEL representative then described two projects in more detail:

1. IMPEL Review Initiative (IRI) – fulfils a requirement in the RMCEI for Member States to cooperate and assist one another in operating the recommendation. It is an informal review of an environmental authority to highlight good practice, opportunities for development, and to demonstrate compliance with the recommendation on minimum criteria. The review is completed by a team leader and 5-6 members; the competence profile of the team enables it to probe different areas of work of the host authority over 3-4 days. The review is structured around a questionnaire covering general organisation, permitting and inspection tasks, the latter aligned to an IMPEL project on an inspection framework called "Doing the right things";
2. Exchange of inspectors – builds on the principle that international cooperation and alignment across borders is important in respect of the enforcement of the waste shipment regulation. Early on, they included "inspector days" as a means of information exchange – e.g. sharing practical examples of work, intelligence on enforcement and new developments in the waste shipment sector - and the development of a network of contact points in Member States. Now, there are joint enforcement actions on waste shipment, including cross-border collaboration with other authorities such as customs and police. The results are analysed to identify where members encounter similar problems that the cluster can then tackle in follow-on work. These specific projects address issues of interest and benefit to all IMPEL members. Another example was the Seaports project. It provides a network of enforcers in different ports and countries. It has a plan of coordinated and joint inspections and has examined differences in interpretation and enforcement. leading to the development of standard methods of enforcement.

Following the presentation, the chairman invited reaction from the members.

Belgium sought clarification on the role of customs authorities in the import/ export and discovery of waste shipments. A number of members (UK, Norway, Lithuania) responded that waste inspection is directed by intelligence gathered by their environmental authorities, as the lead authority, with good support from customs and/or the police to halt, seize and/or store illegal shipments.

The Chairman expressed thanks to IMPEL and considered the information a valuable contribution to the Forum's learning, the development of its future work, and looked forward to a continued cooperation.

g) *CLEEN Conference 7-8 September 2010 in Romania*
The Secretariat briefed members on the key outcomes of this conference. CLEEN will undertake 4 projects on the detergents Directive, persistent organic pollutants (HCB) in fireworks, an e-commerce project, and the Euro-biocides project. The minutes were expected early in November and once received, the Secretariat will publish them on CIRCA for members.

Item 14 – Discussion on other Forum enforcement activities

a) Polyaromatic hydrocarbons in tyres

The UK project coordinator gave an update on the state of play with the Forum's project on polycyclic-aromatic hydrocarbons (PAH). Stages 1-3 of the project were complete; stakeholders had been contacted, (22) information notices distributed, and the principal international tyre exhibition, Brityrex attended.

The 2-part guidance has now been improved and reissued; Part 2 provides the information on what companies should do to demonstrate compliance; but analysis remains an essential part of this.

Audits of 4 UK tyre production facilities are planned in October. Samples of all their (14) different extender oils will be analysed (£320 per analysis). Once audited and confidence has been gained on these companies' quality and sourcing procedures, the team will compile a list of compliant tyres. The results are expected at year end.

For imported tyres, 18 tyre brands have been selected; these equate to the most popular tyre(s) for the market. Five (5) samples per tyre (tread & side wall) are necessary for a correct analysis (typically £520 per analysis per sample). The information will be shared with other project participants securely via the Forum methods described earlier in the Forum-8 agenda.

In addition, a Q&A has been circulated to participating countries and an anonymous hotline set up for businesses to contact us.

In the European project, 10 Member States are participating; others are welcomed to join even if they just want to distribute the guidance to raise awareness in their industry.

The project should be finished by Forum-9 and a report can be made.

The Chairman repeated the call for information and coordination between participating countries on this project. Members were then invited to comment.

To conclude, the Commission asked to receive a report that set out the approach, findings and the difficulties for enforcement encountered on this restriction so that when its review came, the Commission could learn from the difficulties experienced. The UK agreed to provide this report and similar reports on other initiatives on restrictions.

b) Extension of the Forum enforcement project REACH-EN-FORCE 1

The Working Group Chair provided an update for members on the state of play with the prolongation of the REF-1 project including the number of countries participating and statistical data on the number of inspections carried out during the reporting period.

The conclusion and recommendations from REF-1 were published in August 2010. Seventeen countries are now participating in the extension and data on their inspections and findings are being gathered via a questionnaire. To date, 273 inspections have been completed in 9 countries. A fuller account will be given at Forum-9.

c) Examples of national strategies from Member States / implementation of Forum strategy

A) France

In France, the Ministry of Ecology is the competent authority for REACH and works alongside several enforcement authorities e.g. labour inspectorate, customs, trade & consumer safety. Overall there are ca.100 persons in the French authorities, highly skilled on REACH/ CLP.

In 2008, the *Working Group of the Forum* with 5 Ministries was created to support the coordination of enforcement authorities on all chemicals legislation in France. All coordinated (and themed) work is executed through an interministerial instruction which is signed annually (see French Prime Minister's web page http://www.circulaires.gouv.fr/index.php?action=accueil, indicating DEVP1005512C) The instruction comprises 2 parts: Part 1 gives general statements on aims, the approach and the issues to address for the harmonised enforcement of REACH & CLP. It is published on the internet and signed by the General-Directorates. Part 2 is confidential and comprises a series of annexes i.e. on REACH it sets out what to enforce e.g. the Forum REF-1 project, with the targets and goals for each of the different inspectorates; it is very detailed and explains how we work together on the issue.

B) United Kingdom
The UK presented the UK REACH enforcement strategy and gave examples on it implementation.

The document "Strategy and Guidance for Enforcement of REACH in the UK" was published in April 2010. It is available on the Health and Safety Executive's website (the UK REACH competent authority) and will be published on CIRCA for Forum members. It was developed by the UK REACH Enforcement Liaison Group at the national level which comprised the 7 UK enforcement authorities and other departments e.g. customs, UK government, animal testing. It explains the UK organisation and approach with education, awareness raising and guidance as the primary role to enable companies to achieve compliance themselves; materials are published at www.hse.gov.uk/reach. Then, secondly, HSE carries out a range of interventions - proactive and reactive – where formal enforcement may be taken when necessary. The UK has priority duties for enforcement based on the Forum's strategy for REACH and in accordance with UK government policy and priorities.

The presentation then gave examples of proactive work to illustrate UK strategy in practice. These included substance-specific enforcement campaigns e.g. on ammonium dichromate and methylene diphenyl diisocyanate (MDI) and targeting registration-related duties, chosen on the basis of selection criteria. In the case of MDI for instance, it has a wide dispersive use, a large number of target duty holders, and it is an organisational priority as a respiratory sensitiser. The UK will publish its criteria in due course.

HSE collaborates with other national enforcement authorities, notably the Environment Agencies, as well as ECHA to validate and improve its intelligence base from which to then target its interventions by inspection and/ or other means. In addition there are topic-based enforcement projects e.g. on pre-registered non phase-in substances, for which the same methodology is applied.

On reactive work, the competent authority follows up on complaints and referrals e.g. from other public authorities, of which 155 cases have arisen since December 2008. Complaints are investigated in anonymity if the complainant so requests it.

HSE maintained a core of expertise centrally to enforce the complex legal issues (e.g. registration, safety data sheets) that are identified by regional (chemical) inspectors from other departmental Directorates.

The Secretariat invited members to submit information and/ or web links to their national websites on their strategies and initiatives so that the enforcement part of ECHA's website can be updated.

d) *Report on study visit to the UK*
ECHA/Forum-8/2010/10

The Secretariat had published a report on CIRCA of their study visit to the UK, hosted jointly by the UK REACH CA and the Environment Agency, and members were directed to this report on the detailed programme, subjects covered and how the enforcement authorities carry out their work in practice, and lessons learnt. The report had also been shared internally in ECHA.

The Netherlands added that, in principle, it was content to facilitate a similar visit to their authority by the Secretariat and/or inspectors from another Member State.

e) *Coordinating exchange of inspectors*
Room document 2
The Secretariat introduced the Room document which proposed a short survey of members to gather information on their experience on "coordinating exchange of inspectors" which was one of the tasks of the Forum (REACH Article 7(4)(c)). The Forum could then consider the information when developing its activities for its future Work Programme, 2011 to 2013.

The Chairman invited reaction from members. In the discussion that followed, members thought the exercise worthwhile but drew attention to the certain factors on implementing exchanges notably, language, financing, and time required for planning and execution. The Commission stated that it would research its possibilities for supporting this task e.g. financially, and invited ECHA to do so too. The representative from IMPEL also offered their cooperation. The launch of a survey was agreed.

f) *Status on pending (NONS) notifications*
ECHA provided information on the number of pending requests, the countries concerned, and ECHA's communication strategy with Member State competent authorities, notifiers and Forum. Requests made by Member State competent authorities to notifiers under Directive 67/548/EEC shall be considered a decision adopted under REACH, Article 135; in October 2010, there were 209 decisions pending.

The status on pending requests has been shared with Member State competent authorities via the Evaluation CIRCA platform; the data are updated monthly. ECHA will send out reminders to the original notifiers with copies to Member State competent authorities. ECHA has no enforcement power to "follow-up" these reminders, but wished to know what action was being taken at the national level. ECHA had previously invited the Forum to consider how they intend to enforce the high number of pending requests for further information that have already passed the deadlines set. Such work could be considered a pilot for the Forum in respect of setting priorities for enforcement and establishing good collaboration between the Forum, Member States and ECHA.

The Chairman repeated the remarks from Forum-7 that this subject was an important area of work and invited members to consider at a national level how authorities may go about enforcing these outstanding information requests. Close cooperation between national enforcing authorities and Member States competent authorities was essential.

Members were invited to comment. Many Forum members gave feedback on the action taken already or planned. Member States would continue to provide feedback to ECHA. However, member considered it essential that ECHA keep competent

authorities informed about their communications with companies, especially if new deadlines are set (although strictly a deadline in the decision cannot be changed). It was suggested that ECHA inform the competent authorities when the reminder letters are sent so that enforcement authorities can plan their work around this.

Item 15 – Further steps regarding the thought starter on the interlinks between ECHA, Member State competent authorities and Enforcement Authorities

a) *State of play*
ECHA/Forum-8/2010/11

The Secretariat presented the further feedback and comments on the thought-starter for communication and division of tasks between ECHA, the Member State authorities in the context of REACH and CLP enforcement. An additional six Forum members had provided comments and made suggestions; these were reflected in *ECHA/Forum-8/2010/11*.

The members agreed at Forum-7 that further discussions could also involve Member State competent authorities and CARACAL. However, before starting the discussion at CARACAL, the Forum members acknowledged that they should gather more information, to elaborate further the thought starter with the aim to present a final Forum document at CARACAL for consideration and supporting the effectiveness of enforcement of REACH and CLP.

The Secretariat proposed the establishment of a Working Group to consider arguments submitted so far and develop practical solutions on how these interlinks can be managed in practice. The Working Group could, for instance:

- Elaborate further the thought starter;
- Consider the ideas provided on cooperation;
- Evaluate the proposals for interlinks;
- Describe the role of the actors within the Member States;
- Indicate a description of the processes in Member States regarding the division of tasks;
- Propose additional interlinks, if needed.

The Chairman echoed the Secretariat's call for a Working Group and reminded members of those areas already discussed during this meeting where interlinks and close collaboration between the actors were important to ensure the effective enforcement of REACH/ CLP, namely: data sharing and REACH Article 30(6); screening dossiers on intermediates; and pending NONS notifications.

Forum members gave broad support to the establishment of a Working Group. Many recognised the need for a good basic background document to anchor its work and provide a common understanding on roles and expectations. The need to combine this work with the Forum's strategy document and wider work in its Work Programme was acknowledged. The Working Group must also be aware of all discussion/ activities in CARACAL.

Responding to a point on whether it was the Forum's role to establish these borderlines, the Chairman acknowledged that the enforcement of REACH was the domain of each national enforcement authority. That said, the Forum was established by REACH to coordinate a network of national enforcement authorities and to collaborate with competent authorities in doing its work.

Item 16 – Forum Work Programme: progress check
The chairman proposed to combine agenda items 16(a) to 16(c) together; members agreed.

a) Review and revise current Work Programme 2008-2010
The chairman proposed that this review be carried out by an existing Working Group e.g. the Working Group on CLP Enforcement (see agenda item 6d), under a new mandate. The Group could also prepare proposals for the Forum's work beyond 2010 (see agenda item 16c). The Forum agreed. Members recommended that the work on the Forum's Work Programme and on interlinks/ borderlines (see agenda item 15) be carried by separate Groups.

b) *Evaluation of the Work Programme 2008-2010*
ECHA/Forum-8/2010/12

The Secretariat explained that the aim of the Forum Work Programme was to cover the tasks described in the REACH Regulation and the Forum rules of procedure.

The ECHA Committees have submitted a report to the Management Board covering the functioning of the Committees, their mandates and workload. The document summarises the main issues and challenges encountered in the capacity and functioning of the Committees. The evaluation was based on the first satisfaction survey that was performed in autumn 2009 with all Committee and Forum members, other feedback from members and input given by the Committee Chairs, the Commission and the ECHA Secretariat.

The Secretariat proposed an evaluation of the Forum's Work Programme, from 1 June 2008 to 31 December 2010, with a view to preparing a similar document. A reflection on the aims and objectives achieved could be a constructive way to improve the work of the Forum. Furthermore, such a report may identify possible solutions for any problems encountered, including those that are potentially related to the current ongoing renewal and appointment process.

The Secretariat invited the Forum Chairman, vice-Chairmen and senior representatives of the Forum to volunteer their experience gained in their first term of office so that a report can be prepared in November for presentation at the next Management Board in mid-December 2010.

The Chairman considered such a report offered a good opportunity to reflect on the work done by the Forum. The Forum members agreed to the proposal.

c) *Discuss Work Programme beyond 2010*
See notes at agenda item 16(a).

d) *Review and revise existing WG mandates*
The Forum reviewed extensively the Working Group mandates and their compositions to ensure a sound continuity of the Forum's Work Programme, over the transitional period where many members terms will be expiring and new members will be joining.

The agreed mandates are given at Section IV, Annex II, of these Minutes.

e) *Dates for Forum-9 and Forum-10 in 2011*
Following a proposal from the Secretariat, the Forum agreed the dates for its two plenary meetings in 2011;

- Forum-9: 1 to 4 March 2011

- Forum 10: 4 to 6 October 2011

Forum-9 would comprise a $2^1/_2$ day Forum plenary with a one day Stakeholder Workshop on 3 March 2011.

f) *Proposal for the timing and content of a Forum Stakeholder Workshop in 2011*
The chairman reminded members of the positive reaction to the first workshop which preceded Forum-7. Stakeholders found this event very beneficial and liaison with industry and stakeholders was one of the Forum's tasks under REACH.

Members discussed the format for the workshop based on the learning points from the first workshop, in particular the use of breakout groups, although these would not take up the main part of the agenda. The chairman acknowledged that the preparations are very important and members would be consulted so that the Forum could prepare considered and agreed responses to any stakeholder issues. The format will depend however on the nature and number of proposals received.

Members also considered that ECHA should participate in the workshop, not least as the event will take place after the 2 deadlines on REACH registration and CLP notification.

An agenda for the workshop needs to be prepared. To go forward, the following process was agreed:

1. Secretariat will contact the **stakeholders** and **members** and invite subjects for the workshop;
2. Proposing persons should be ready to run the relevant discussion during the workshop;
3. The proposals will be compiled by the Secretariat and assessed by the chairman who will draft the workshop agenda with the Secretariat;
4. Members will be consulted on the topics and agenda via written procedure before Forum-9.

Item 17 – Conclusions and action points from meeting
The conclusions and action points of the meeting were adopted by the Forum; the agreed points are given at Section II of these Minutes.

Item 18 – AOB
Missing enforcement-related contributions from Member States to the ECHA web site
The chairman encouraged members to submit their information to the Secretariat so that the enforcement pages on the ECHA web site could be completed.

Item 19 – Closing of the meeting
The chairman thanked the participants and Secretariat for their contributions and support, and in particular, expressed sincere thanks and gratitude to those Forum members who will not continue beyond 10 December 2010 when their term of office expires for their active participation at the plenary, working groups and other Forum activities.

The chairman wished the Forum success in moving forward beyond 2010.

The meeting then closed.

II. Main conclusions and action points: Forum-8, 12-14 October 2010
(Adopted at the Forum-8 meeting)

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
AP 1 – Address by the Executive Director		
AP 2 – Welcome and introduction		
2.a) Welcome by the Chair of the Forum	-	-
2.b) Adoption of agenda and declaration of interests	Agenda has been adopted.	-
2.c) Adoption of minutes of Forum-7	Minutes were adopted.	
2.d) State of play with action points from Forum-7	-	
2.e) Practicalities and brief recapitulation of results of the written procedures between Forum-7 and Forum-8	-	
AP 3 – Update on developments by the Commission		
3.a) Update from CARACAL		**Forum members** to liaise with the RAPEX contact points on the national level regarding the feedback to the COM on the use of RAPEX by 19 November **COM** to contact Forum Secretariat when involvement of the Forum is required for the project on enforcement of restrictions.
3.b) Outcome of Member States' reports on REACH operation with respect to enforcement – Article 117(1)	-	**COM** with advice from ECHA is invited to investigate how the access to the MS reports can be granted to Forum members by 19 November.
3.c) Feedback on Forum documents submitted to COM	-	-
3.d) Modifications of the EU legislation	The Forum stressed its statutory obligation to discuss enforcement issues and highlight problems at	-

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	the Community level. The Forum noted that it is not a requirement that CARACAL be involved in discussion of enforcement issues.	
AP 4 – Appointment / renewal of Forum members		
4.a) State of play with appointment/ renewal of Forum membership	The Forum took note the information on renewals and appointments.	**Forum members** to submit written nominations for candidatures for Forum Chair and Vice-Chair to the Secretariat by 7 January 2011
AP 5 – DCG		
5.a) Feedback from consultation of the Forum	-	-
5.b) State of play	The Forum discussed the solutions presented by the DCG and in that context noted that companies displaying due diligence contact ECHA in the manner prescribed by the solutions. The Forum highlighted that Enforcement Authorities are not bound by the proposed solutions and noted that enforcement authorities may take them into account.	**ECHA** to investigate if the MSCA contact point list can be distributed to the Forum and if yes, do so by 12 November
AP 6 – WG Reports		
6.a Cooperation with customs	The Forum took note of progress and agreed to extend the WG mandate.	**COM** to send the paper from CARACAL regarding the exemption under Article 2.1.b by end of October
6.b Preparation of the Forum enforcement project 2010/2011	The Forum took note on the work presented and congratulated the WG for meeting its mandate. The REF-2 documentation was adopted with comments.	**Forum members** to submit the comments provided at the plenary in writing by 29 October 2010 **WG REF-2** to revise the manual accordingly by 12

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
		November 2010 **Forum members** from countries, which did not yet nominate the national coordinator, are invited to consider doing so by 29 October 2010.
6.c. a. Access of inspectors to data from REACH-IT Progress report from WG Chair	The Forum took note of the progress report.	-
6.c. b. RIPE progress, security recommendations, appointment of administrators	The Forum took note of the information provided.	**Forum members** to indicate their preference whether the declaration from EA is needed by 12 November. **ECHA** will consult the SON in writing regarding the declaration of Enforcement Authorities by 26 November **ECHA** to send the invitation for appointment of MS RIPE Administrator before 12 November **Forum members** to liaise with SON members and start preparation for the appointment of the MS RIPE Administrator and end-user point of contact.
6.d Forum activities on CLP enforcement	The Forum took note on the work presented and congratulated the WG for meeting its mandate.	
6.e Training for trainers on CLP enforcement	The Forum took note of progress. The Forum appreciated the offer	**Forum members** invited to volunteer as speakers for the

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	of cooperation between the two WGs dealing with CLP.	training to the Secretariat by 29 October. **Forum members** to appoint trainees for the CLP training event, if they have not done so by 22 October
6.f Summary of Forum activity on restrictions dossiers	The Forum took note of the work and progress of the WG.	**Forum WG** to consider the late comments on DMFu and lead if the second Forum advice is needed. **Forum members** to submit comments to the discussion paper – Annex II of the WG report by 6 November
AP 8 – Enforceability of restrictions		
8.a State of play with the on-going restriction proposals	The Forum took note of the information provided.	-
8.b Comments on restrictions from the Commission	The Forum took note of the information provided. The Forum agreed to consider the Restrictions FAQ document prepared by the Commission.	**COM** to consider with the Forum WG the issue of substances placed on the market for an intended use in time for discussion at Forum-9.
AP 9 – Electronic Information Exchange System		
9.a Briefing from ECHA	Forum took note of the information provided.	**ECHA** in liaison with UK to investigate the information exchange solutions offered by Interpol by 7 January 2011
9.b Temporary requirements	The Forum took note of the information provided.	**Forum Members** to consider any questions regarding the information provided by 19 November.
AP 10 – Practical issues in enforcement		
10.a) Issues in data sharing and registration	The Forum agreed in principle that the first point of contact in similar cases would be the Forum members, but that the specific	-

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	procedures should be considered in detail in the document on the interlinks between ECHA, Enforcement Authorities and MSCAs.	
10.b.1) 1) Supplying substances that have been pre-registered but not registered in full, after their registration deadline has passed.	The Forum took note that the subject is planned for discussion in CARACAL.	**COM** to forward the draft document on this issue and inform the Forum on the results of the discussion at CARACAL by 29 October
2) What is sufficient proof of exemption under Annex V, particularly naturally occurring substances.	The Forum agreed that while the details of the documentation may differ, the description of the process in which the substance is manufactured should be relevant documentation to consider when judging if the exemptions of Annex V apply.	-
3) OR and notification information	The Forum discussed the issue and agreed that the proposed solution is not workable.	**COM** to discuss the issue internally and inform the Forum of its findings by 19 November 2010. If no solution is found by COM, the ECHA Secretariat will add the issue to the list of Forum proposals for amendment to highlight this problem to the COM.
4) Article vs. Mixture	Forum highlighted that is not the role of the Forum to offer solutions to business-specific problems. The Forum reconfirmed the approach of the helpdesks and ECHA indicating that the decision on the type of product (article / mixture) belongs to the industry, which should take the decision and have relevant reasoning to	**Forum Secretariat** to consult this issue with the ECHA Helpdesk by 29 October and report its findings to the Forum

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	back it up. Inspectors would take such decisions on a case by case basis after considering the information provided by the company. Forum noted that it would be beneficial to exchange information on enforcement activities where similar difficult decisions have been taken.	
5) Fold out labels	The Forum noted that fold out labels or booklets are allowed, but only in cases where the packaging is awkward or so small that the label cannot be of appropriate size as to contain the required information in the language(s) of the country in which it is placed on the market. It was further agreed that inspectors will not accept use a fold out label only because the packaging is too small to hold a label in several different languages in cases where the supplier wants to place the substance or mixture with the same label on the market in several different countries.	-
6) Format of the Safety Data Sheet	The Forum noted the complexity of transitional arrangements in relation to the SDS and signalled that enforcement priority should be the high quality of the content of the SDS. It noted that there should be consistency between the information in the label and the SDS.	**WG REF-2** is invited to consider this issue during the training for the national coordinators of the REF-2 project HU and NO members to liaise with ECHA regarding repeated purchases from the same supplier by 19 November 2010
7 and 8) OR and elaboration of the SDS	Forum agreed that, subject to legal advice from COM to the contrary, the inspectors will follow the guidance on registration indicating that the OR takes over	-

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	the responsibilities of the importer and is thus responsible for the provision of the SDS in line with Art 31.	
9) Obligation to provide an SDS to retailers offering substances to general public	The Forum agreed that inspectors in MS will require that SDS are provided to retailers because: o the retailers themselves need the safety information contained therein and o the retailers may sell the substances to professional users	-
10.c) Action in the Netherlands on pre-mixes for feed and Only Representatives	The Forum took note and welcomed the information on NL projects provided.	**Forum members** are invited to present information on enforcement projects run at national level at Forum-9 and further Forum meetings. **Forum Secretariat** will invite the volunteers for such presentation(s) by 17 December 2010
10.e) Dossiers on chemical intermediates	Forum took note of the information provided and concluded that specific procedures for communication between ECHA and Enforcement Authorities should be considered in detail in the document on interlinks between ECHA, Enforcement Authorities and MSCAs.	**Forum members** to investigate how the intermediate cases are handled on the national level and report back before Forum-9.
AP 11 – Update on relevant developments by ECHA		
11.a Changes in ECHA's organisation	Forum took note of the information.	**Forum Secretariat** to provide to Forum members the new ECHA organigramme including the names of heads of units at the beginning of 2011
11.b ECHA's Work Programme 2011	Forum took note of the information provided.	-
11.c Update on Guidance Developments	The Forum took note of the status of work on the ECHA guidance and that it will be consulted with regard to:	-

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	o Guidance on SDS o New interpretation of the guidance on substances in articles and o Guidance on application of the CLP classification criteria	
AP 12 – Update on cooperation with other networks		
12.b IMPEL	The Forum welcomed the presentation from IMPEL and information about the mutual review process between the authorities responsible for environment.	-
AP 14 – Discussion on other Forum activities		
14.a Polyaromatic hydrocarbons in tyres	The Forum welcomed the information on the progress of the project.	**UK Advisor** to circulate the restrictions FAQ document to Forum members by 29 October
14.b Extension of the Forum enforcement project REACH-EN-FORCE 1 (Progress report)	The Forum took note of the work progress and thanked the WG Chair for his work and contribution.	-
14.c Examples of national strategies from Member States	The Forum welcomed the information on French and British enforcement systems.	**Forum Members** to consider submitting updated information about their systems or strategies for the ECHA website when available
14.d Report on study visit to the UK	The Forum took note of the information provided.	-
14.e Coordinating exchange of inspectors	The Forum discussed the exchange of inspectors and agreed to conduct the survey on the experiences of the Member States in that area and its potential benefits.	**Forum Secretariat** will invite the members to submit information on their experience with exchange of inspectors by 29 October. **Forum members** to submit this information by 21 January 2011 **COM and ECHA** to investigate the

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
		possibilities of financial support of the exchange of inspectors by Forum-9
14.f Status on pending (NONS) notifications	The Forum took noted the progress of work on the pending cases.	**ECHA** to inform the Forum members when the reminders are sent to non-compliant companies.
AP 15 – Further steps regarding the thought starter on the interlinks between ECHA, MSCAs and enforcement		
15.a) State of play	The forum agreed that it will be necessary to establish the working group to investigate the subject of "borderlines".	**COM and ECHA** to provide the WG any relevant documents dealing with the "borderlines" by 29 October
AP 16 – Work Programme progress check		
16.a Review and revise current Work Programme 2008-2010	-	-
16.b Evaluation of the Work Programme 2008-2010	The Forum agreed to prepare the document evaluating its work in the years 2008 - 2010	**Forum members** to express interest in participating in preparation of the document by 22 October. **Chair, Vice Chairs and Secretariat** to draft the evaluation document by 12 November **Participating Forum members** to submit their comments by 26 November
16.c Discuss Work Programme beyond 2010 (2011-2013)	The Forum agreed to task the WG to elaborate the Work Programme 2011-2013.	-
16.d Review and revise existing mandates	The Forum revised the mandates of the existing WGs and established new WGs to work on: o Forum's position on interlinks between ECHA, Enforcement Authorities and MSCAs o Coordination of REF-2 and	**Forum members** sending experts to the WGs to confirm their names by 29 October 2010

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	o Forum Work Programme 2011-2013	
16.e Dates for Forum-9 and Forum-10 in 2011	Forum agreed for the following dates: Forum-9: 1-4 March 2011 Forum-10: 4-6 October 2011	-
16.f Proposal for the timing and content of a Forum Stakeholder Workshop in 2011	Forum agreed that the stakeholder workshop will take place at Forum-9, provided that appropriate proposals for discussion are submitted.	**Secretariat** will invite the Forum members and stakeholder organisations to submit proposals for the workshop by 3 December 2010 Forum members to provide subjects for discussion by 14 January 2011
AP 18 – AOB		
18. Missing enforcement-related contributions from MS to ECHA web site		
18. Further treatment of "Table B" with practical issues	The Forum decided to discuss issues outstanding from Table B at the next plenary meeting.	**Forum Secretariat** to collect new "practical issues" earlier to allow more time for consultation.

Annex III: List of Attendees

MS	Forum Members
RO	ALBULESCU Mihaela
IT	ALESSI Mariano
PT	BARROQUEIRO Álvaro António
UK	BISHOP Richard
NL	BLENKERS Joop
DK	BØRGLUM Birte Nielsen
BE	CUYPERS Paul
HU	DEIM SZILVIA
FI	EKMAN Annette
LI	FRICK Manfred
DE	VOM HOFE Katja *(new member)*
CZ	JAROLÍM Oldřich
SI	JERAJ PEZDIR Mojca
SK	KOLESAR Dušan
IS	KRISTJANSDOTTIR Sigridur
CY	KYPRIANIDOU LEONTIDOU Tasoula
PL	MIEGOC Edyta
MT	MIFSUD Shirley
IE	O'SULLIVAN Tom
LV	PALLO Parsla
EE	PROMET Natali
ES	SÁNCHEZ PEÑA, Pablo
BG	SAVOV Nikolay Stanimirov
LT	SESKAUSKAS Viktoras
SE	THORÁN Karin
FR	VIERS Stéphanie
NO	WIKHEIM Maren
AT	WURM Gernot

MS	Advisers
DE	ZEITLER, Reinhard
FI	LEIKOSKI, Mervi
FI	FORSBACKA, Anna
NL	VAN DEN BERG, Jos
NO	NYGREEN, Beryl
SE	SILLRÉN, Barbro
SE	WESTERBERG, Agneta
UK	HAWKINS, Richard
UK	POTTS, Mike
DK	THORUP MARK, Louise
DK	GITTE PETERSEN, Pia
BE	LEYNEN, Michel
DE	FRENZEL, Stefan
AT	ANWANDER, Eugen
IT	POLCI, Maria
ES	LOPEZ MANCISIDOR, Patricia
IT	DI MARZIO, Graziella
PT	CABRITA, Rui

Commission	
COM	AGUADO, Miguel
COM	DE-CRUZ, Julien *(by video link)*

Enforcement networks - invited experts	
IMPEL	FAWCETT William

	ECHA Staff
Executive Director	DANCET, Geert
Unit A.2	BARANSKI, Maciej
Director C	MUSSET, Christel
Unit A.2	CALVO TOLEDO, J-Pablo
Unit A.2	KOWALSKI, Ulrike
Unit A.2	YLÄ-MONONEN, Leena
Unit A.2	MURRAY, Andrew
Unit A.2	MERELLE, Frederick
Director A	HERDINA, Andreas
Unit B.1	CARLON, Claudio
Unit A.1	NOUWEN, Johan
Unit A.2	THUVANDER, Ann
Unit A.2	TARAZONA, José
Unit B.2	KARHU, Elina
Unit A.3	MAKELA, Petteri
Security/ Facilities Team	KLEMETTI, Kari
Unit C.2	WALIN, Laura
Unit A.1	RODRIGUEZ IGLESIAS, Pilar
E0	HAUTAMAKI, Anne
Unit B.1	CESNAITIS, Romanas

IV. List of Annexes

Annex I

1 October 2010
ECHA/Forum-8/2010/A/01 final draft

Final Draft Agenda

Eighth meeting of the

Forum for Exchange of Information on Enforcement

(Forum-8)

12-14 October 2010
European Chemicals Agency
Helsinki, Finland
12 October: starts at 9:00
14 October: ends at 17:00

DAY 1

Item 1 – Address by the Executive Director of ECHA

Item 2 –Introduction

a) Opening by the Chair of the Forum
b) Adoption of the Agenda and declarations of conflict of interest with regard to Agenda points *(Chair)*
c) Adoption of Minutes from FORUM-7 *(Chair)*
d) State of play with action points from Forum-7 *(ECHA)*
e) Practicalities and brief recapitulation of results of the written procedures between Forum-7 and Forum-8 (*ECHA*)

For adoption
ECHA/Forum-8/2010/A/01 final draft
ECHA/Forum-8/2010/01

Item 3 – Update on relevant developments by Commission

b) Update from CARACAL *(COM)*
c) Outcome of Member States' reports on REACH operation with respect to enforcement (REACH, Art.117(1)) *(COM)*
d) Feedback on Forum documents sent to Commission *(COM)*
e) Modification of the EU legislation *(COM)*

For information

Item 4 – Appointment / renewal of Forum members

a) State of play with appointment / renewal of Forum membership *(ECHA)*

For information

Item 5 – Directors' Contact Group (DCG)

a) Feedback from Forum consultation *(ECHA)*
b) State of play *(ECHA)*

For discussion

Item 6 – Working Group Reports

c) Cooperation with customs
Progress report from the WG Chair ***For information***
ECHA/Forum-8/2010/02

d) Preparation of the Forum enforcement project 2010/2011
Final report from the WG Chair
For adoption
ECHA/Forum-8/2010/03

e) Access of inspectors to data from REACH-IT
a. Progress report from the interim WG Chair
b. RIPE progress, security recommendations, appointment of administrators *(ECHA)*
For information
ECHA/Forum-8/2010/04
ECHA/Forum-8/2010/05

f) Forum Activities on CLP enforcement
Progress report from the WG Chair
For information/ adoption

g) Training for trainers on CLP enforcement
Progress report from the WG Chair
For information
ECHA/Forum-8/2010/06

Item 7 – Adoption of conclusions from day 1

DAY 2

Item 6 – Working Group Reports *(continued…)*

h) Summary of Forum activity on restrictions dossiers
Report from the WG Chair

For discussion
ECHA/Forum-8/2010/13

Item 8 - Enforceability of restrictions

a) State of play with the on-going restriction proposals *(ECHA)*
b) Comments on restrictions from the Commission *(COM)*

For information

Item 9 - Electronic information exchange procedure

a) Briefing from ECHA *(ECHA)*
b) Temporary requirements for exchange of information (*ECHA*)

For information

Item 10 – Practical issues for enforcement

Discussions raised by the Forum members and ECHA

a) Issues on data-sharing & registration (*ECHA*)
b) Items raised by members
c) Action in the Netherlands on intermediaries and Only Representatives
d) Status on pending (NONS) notifications (*ECHA)*
e) Dossiers on chemical intermediates *(ECHA)*

For discussion
ECHA/Forum-8/2010/07
ECHA/Forum-8/2010/08

Item 11 – Update on relevant developments by ECHA

a) Changes in ECHA's organisational structure *(ECHA)*
b) ECHA's Work Programme 2011 adopted by the Management Board *(ECHA)*
c) Update on developments in ECHA's guidance *(ECHA)*
d) Communications and the Forum *(ECHA)*

For information
ECHA/Forum-8/2010/9

Item 12 – Update on cooperation with other networks

a) Update on SLIC WG: CHEMEX projects
b) IMPEL *(to be confirmed)*

For information

Item 13 – Adoption of conclusions from day 2

DAY 3

Item 14 – Discussion on other Forum enforcement activities

d) Polyaromatic hydrocarbons in tyres

e) Extension of the Forum enforcement project REACH-EN-FORCE 1 Progress report from WG Chair

f) Examples of national strategies from Member States / implementation of Forum strategy

g) Report on study visit to the UK Competent Authority (ECHA)

h) Coordinating exchange of inspectors (ECHA)

For information

ECHA/Forum-8/2010/10

Item 15 – Further steps regarding the thought starter on the interlinks between ECHA, MSCAs and Enforcement

a) State of play (*ECHA)*

For discussion

ECHA/Forum-8/2010/11

Item 16 – Forum Work Programme: progress check

a) Review and revise current Work Programme 2008-2010 *(Chair)*

b) Evaluation of the Work Programme 2008-2010 (*ECHA)*

c) Discuss Work Programme beyond 2010 *(2011-2013)*

d) Review and revise existing WG mandates

e) Dates for Forum-9 and Forum-10 in 2011 *(Chair)*

f) Proposal for the timing and content of a Forum Stakeholder Workshop in 2011 *(ECHA)*

For discussion/ adoption

ECHA/Forum-8/2010/12

Item 17 – Conclusions and action points from meeting

Conclusions of the meeting and list of action points *(Chair / ECHA)*

For adoption

Item 18 – AOB

Missing enforcement-related contributions from Member States to the ECHA web site *(ECHA)*

Item 19 – Closing of the meeting

Closing by the Chair

Annex IIa

Forum Working Group
"Implementation of RIPE"

Composition:

Chair: Pablo SANCHEZ-PENA (ES)

Forum Members
- Paul CUYPERS (BE)
- Stephanie VIERS (FR)

Invited Experts
- Barbro Sillren (SE)
- Paolo Izzo (IT)
- Andrea Mayer-Figge (DE)
- Eugen Anwander (AT)
- Beryl C. Nygreen (NO)
- Stephanie VIERS (FR)

Objective: Support the implementation of the REACH Information Portal for Enforcement (RIPE) allowing inspectors access to data from REACH-IT

Mandate:
- Provide input during the development and implementation stage of the application
- Participate in testing and implementation of the application
- Provide input to documents defining the security needs for RIPE and the security guidance, if necessary

Timeline:
- Forum – 10
- interim report at Forum- 9

Annex IIb

Establishment of the Forum Working Group
"Electronic information exchange system"

Composition:

Interim Chair: Birte BORGLUM (DK)

Forum Members
- Pablo SÁNCHEZ PEÑA (ES)
- Gernot WURM (AT) until 10/12/2010

Invited Experts
- Tone Line FOSSNES (NO)
- Maria TARANCON (ES)
- Marta OSOWNIAK (PL)
- Ludwig FINKELDEI (DE)
- Søren JAKOBSEN (DK)
- Gernot WURM (AT) from 11/12/2010

Commission
- Peter BARICIC

Objectives:

1. Identify general functional requirements for the system of electronic exchange of information for REACH and CLP enforcement, in order to fulfill the Forum task in Article 77 (4) (f).

Mandate:
- Prepare general description of functionalities desired from the electronic information exchange system for REACH and CLP enforcement
- If appropriate, define any non-functional requirements, the WG may deem appropriate
- Collate all information on requirements prepared by the WG into one document
- Define basic data sets and main data fields to be translated in national languages

Timeline: Forum-9

Annex IIc

Forum Working Group B7
"Cooperation with customs authorities"

Composition:

Chair: Viktoras SESKAUSKAS (LT) – Forum member

Forum Members
Mariano ALESSI (IT)

Paul CUYPERS (BE)
Tasoula KYPRIANIDOU-LEODIDOU (CY)

Invited Experts (customs authorities)
Andrea KÜRBS (DE)
Päivi SIMPANEN (FI)
Gerlin KALLAS (EE)
Ruta Birute DAUKSIENE (LT)
Henrich CERNUSKO (SK)

Commission
Bartlomiej BALCERZYK (COM)
Miguel AGUADO-MONSONET (COM) - Interim WG member

Supporting team:

Jan OOMEN (NL)
Jorn SORENSEN (DK)
Sylvie DRUGEON (FR)
Johnny CAPPELLE (BE)
Filippo TOMMASO (IT)
Panagiotis THEODOTOU (CY)
Patrick JANKOWIAK (FR)
Gerhard MAROSI (AT)

Objectives: Investigate the needs and areas for cooperation between customs authorities and other REACH enforcers

Mandate:

1. Prepare a document examining the customs control procedures according to Community Customs Code and identifying which are relevant for REACH enforcement and, if needed, clarifying other questions that may be relevant for customs
2. Investigate possibilities and make recommendations for practical control of imports of chemicals by the customs authorities, especially with regard to REACH obligations to be checked and data required during control
3. Draft Forum recommendations regarding the working method between customs authorities and other REACH enforcers at national level
4. Enter into cooperation with DG TAXUD, as far as possible

Timeline: Forum-9

Annex IId

Forum Working Group
"Forum coordinated REACH enforcement project on registration, pre-registration and SDS"

Composition:

Chair: Joop BLENKERS (NL) until 10/12/2010
Mihaela ABULSCU (RO) from 11/12/2010

Forum Members
- Mihaiela ALBULESCU (RO)
- Stephanie VIERS (FR) until 10/12/2010

Invited Experts
- Jos VAN DER BERG (NL)
- Andrea MAYER-FIGGE (DE)
- Hannu Thomas KOKKO (FI)
- Stephanie VIERS (FR) from 11/12/2010

Objective:
- Coordinate and manage the operational and reporting phase of the continuation of REACH-EN-FORCE-1

Mandate:
- Prepare the report of the continuation activities in 2010 and 2011 and present it to the Forum plenary

Timeline:
- Report on REACH-EN-FORCE-1 continuation activities: Forum 10 or the first plenary meeting after cease of project continuation activities.

Annex IIe

Forum Working Group
"Enforceability of restrictions"

Composition:

Chair: Paul CUYPERS (BE)

Forum Members
- Karin THORAN (SE) until 10/12/2010
- Mariano ALESSI (IT)
- Joop BLENKERS (NL)

Invited Experts
- Jos VAN DER BERG (NL)
- Karin RUMAR (SE)
- Richard HAWKINS (UK)
- Tone Line FOSSNES (NO)
- Leonello ATTIAS (IT)
- Uwe LICHT-KLAGGE (DE)
- Karin THORAN (SE) from 11/12/2010

European Commission
- Laurence Cordier (COM)

Objective:
- Facilitate the elaboration of the Forum advice on enforceability of restrictions

Mandate:
- Prepare the draft Forum advice on enforceability of proposals for restrictions within Annex XV dossiers that are in conformity with the REACH requirements, taking into account the comments of the Forum members
- Prepare the draft Forum advice on enforceability of restrictions on cadmium and acrylamide delivered by the Commission
- Evaluate and revise the checklist for preparing the Forum advice on proposals for new restrictions in Annex XVII

Timeline:
31 December 2011, in principle reporting at each plenary meeting
Forum-9 – Evaluate and revise checklist for preparing advice

Annex IIf

Forum Working Group
"Training for trainers on CLP enforcement"

Composition:

Chair: Nikolay SAVOV (BG) from 11/12/2010
Karin THORAN (SE) until 10/12/2010

Forum Members
- Szilvia DEIM (HU)

Invited Experts
- Colin SMITH (IE)
- Anne AUDIC (FR)
- Susanna NORRTHON RISBERG (SE)
- Kristina KAZEROVSKA (LV)
- Eugen ANWANDER (AT)
- Celsino GOVONI (IT)
- Michael KAUFHOLD (DE)
- Karin THORAN (SE) from 11/12/2010

Objective:
- Prepare and deliver the training for trainers on the enforcement of CLP Regulation in Q1 2011

Mandate:
- Prepare the agenda of the training
- Prepare materials necessary for the training such as presentations or documents
- Actively conduct the training event with support from other Forum members, as necessary
- Collect and summarise the reactions of participants and formulate recommendations for next trainings

Timeline:
- Forum-9, with progress report at Forum-8

Annex IIg

Forum Working Group on
"Preparation of Forum Work Programme 2011-2013 and review of best practice documents"

Composition:

Chair: Tasoula KYPRIANIDOU-LEONTIDOU (CY)

Forum Members
- Mariano ALESSI (IT)
- Maren WIKHEIM (NO)
- Katja VOM HOFE (DE)

Invited Experts
- Eugen ANWANDER (AT)
- Agneta WESTERBERG (SE)
- Maria Letizia POLCI (IT)
- Zsuzsanna KISS (HU)
- Andrea MAYER-FIGGE (DE)
- Anna FORSBACKA (FI)

Commission
- Karola GRODZKI

Objective:
- Review and prepare the Forum Work Programme for years 2011-2013
- Review the three Forum best practice-documents

Mandate:
- Review the existing Forum Work Programme 2008-2010 considering the WP evaluation document prepared by the Forum members in 2010 and work of the WG on Forum CLP activities;
- On the basis of the review, prepare the Forum Work Programme 2011-2013
- Review the following documents and further revise them following the comments provided by Forum members:
    - Enforcement Strategies
    - Minimum Criteria for REACH Inspections
    - Criteria for the prioritisation of FORUM coordinated projects

Timeline: Forum-9

Annex IIh

Forum Working Group
"Interlinks between ECHA, MSCAs and Enforcement Authorities"

Composition:

Chair: Mihaela ABULESCU (RO)

Forum Members
- Maren WIKHEIM (NO)
- Oldrich JAROLIM (CZ)

Invited Experts
- Barbro SILLRÉN (SE)
- Sinead MCMICKAN (IE)
- Pia PETERSEN (DK)
- Cedric MESSIER (FR)
- Annika KUTILAINEN (FI)
- Jos VAN DEN BERG (NL)
- Rosemarie GREIWE (DE)

COM
- Daniel BENJAMENS (COM)

Objective:
- Draft the Forum's position on interlinks (particularly communication channels and procedures) between ECHA, MSCAs and Enforcement Authorities, which are relevant for enforcement. That document will be used to launch a discussion with ECHA, COM and CARACAL

Mandate:
- Prepare the document on interlinks between ECHA, MSCAs and EAs by:
  - Reviewing and elaborating the thought starter on interlinks prepared by ECHA, considering and evaluating the existing proposals and ideas for cooperation
  - Consulting any other relevant documents dealing with similar subject, such as those prepared for CARACAL
  - Consulting MSs and ECHA with regards to their need for communication among themselves and also with the enforcement authorities
  - Identifying the roles of the actors within the Member States
  - Further describing the relevant processes and indicating division of tasks and timelines
- Consult the document with the Forum, at least once before submitting it for adoption

Timeline: Forum-10

Annex IIi

Forum Working Group

"REACH-EN-FORCE-2 project:
Obligations of Downstream Users - formulators of mixtures"

Composition:

Chair: Nikolay SAVOV (BG)

Forum Members
- Maren WIKHEIM (NO)

Invited Experts
- Marta OSOWNIAK (PL)
- Cecilia WESTOO (SE)
- Nikoletta MAROSVOLGYI (HU)
- Lutz Erdmann (DE)
- Maria TARANCÓN ESTRADA (ES)
- Hannah BEMBRIDGE (UK)

Objective:
- Coordinate and manage the operational and reporting phase of the REACH-EN-FORCE-2 project

Mandate:
- Revise the project manual further to comments submitted at Forum-8
- Develop performance indicators for evaluation of Forum projects
- Coordinate and provide consulting assistance to the national project coordinators from the participating countries within the operational and reporting phase of the project,
- Supply the national coordinators with up-to-date versions of project documents
- Collect and compile results from the national coordinators
- Prepare final project report and present it to the Forum plenary
- Elaborate guidance for REACH & CLP enforcers on the basis of manual and experience obtained in the project

Timeline: Q2 2012, reporting to the Forum at each plenary

Annex III: List of meeting documents and room documents for Forum-8

AP	Document	Number
2b	Final Draft Agenda for Forum-8	ECHA/Forum-8/2010/A/01 final draft
2c	Adoption of Minutes from Forum-7	ECHA/Forum-8/2010/01
2e	Written procedure reports	Room document 1
3c	Forum documents sent to Commission	Room document 8
6a	Progress report of the Forum WG B7 "Cooperation with customs"	ECHA/Forum-8/2010/2
6b	Final report of the Forum WG "Preparation of Forum enforcement project for 2010/2011"	ECHA/Forum-8/2010/3
6b	Final report of the Forum WG "Preparation of Forum enforcement project for 2010/2011". Comments on REF-2 manual submitted by Stéphanie Viers and responses agreed with WG Chair	Room document 7
6c.a	Progress report WG "Access by inspectors to data from REACH-IT"	ECHA/Forum-8/2010/04
6c.b	Security recommendations for MS concerning access to RIPE	ECHA/Forum-8/2010/05
6d	Progress report of the Forum Working Group "Forum activities on CLP enforcement"	Room document 2
6e	Progress report from the Forum WG on Training for trainers on CLP enforcement	ECHA/Forum-8/2010/06
6f	Progress report WG "Enforceability of restrictions"	ECHA/Forum-8/2010/13
8b	Enforceability of restrictions: Comments on restrictions from the Commission	Room document 6
10a	Issues in data sharing & registration	ECHA/Forum-8/2010/07
10b	List of Forum members' proposals for discussion under "Practical issues for enforcement"	ECHA/Forum-8/2010/08
10b	List of Forum members' proposals for discussion under "Practical issues for enforcement". Supplement to list: Proposals received after the deadline	Room document 3
10e	Intermediates in REACH: the outcome of ECHA's first screening activity under Evaluation (the document was prepared 01/06/2010 for the 5TH MEETING OF COMPETENT AUTHORITIES FOR REACH AND CLP (CARACAL) on 15-17 June 2010)	Room document 4
11a	Changes in ECHA's organisational structure	ECHA/Forum-8/2010/09
14d	Report on Forum Secretariat's study visit to UK	ECHA/Forum-8/2010/10
14e	Coordinating exchange of inspectors	Room document 5
15	Further steps regarding the thought starter on the interlinks between ECHA, MSCAs and Enforcement Authorities	ECHA/Forum-8/2010/11
16b	Evaluation of Forum Work Programme 2008-2010	ECHA/Forum-8/2010/12

Annex IV. Glossary of acronyms and abbreviations used in these Minutes

AMS: Regulation (EC) No 765/2008 concerning the Accreditation and Market Surveillance
CARACAL: MSCA Committee for REACH and CLP
C&L: Classification and Labelling
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 Commission
ECHA: European Chemicals Agency
EEA: European Economic Area
EFTA: European Free Trade Agreement
EIES: Electronic Information Exchange System
ENTR: DG Enterprise and Industry at the European Commission
ENV: DG Environment at the European Commission
EU: European Union
ICSMS: The internet-supported information and communication system for the pan-European market surveillance of technical products
IUCLID: the International Uniform Chemical Information Database
MB: the Management Board of ECHA
MS: Member States
MSC: Member States Committee
NEA: National Enforcement Authorities
PEG: Partners Expert Group
RAC: Risk Assessment Committee
RAPEX: EU rapid alert system
REACH and REACH Regulation: Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals
REACH-EN-FORCE 1: 1st Coordinated Enforcement Project of the Forum focusing on pre(-)registration and SDSs provisions of REACH
RIPE: IT system for Enforcers
RMM: Risk Management Measures
SDS: Safety Data Sheet
SEAC: Socio Economic Analysis Committee
SIEF: Substance Information Exchange Forum
SME: Small and Medium Sized Enterprises
WG: Working Group
WP: Work Programme of the Forum