



**Forum/M/05/2009 Final - Public
Adopted at Forum-6, 8 December 2009**

**Minutes of the 5th meeting of the Forum for Exchange of Information on
Enforcement**

**European Chemicals Agency,
8-10 September 2009**

I. Summary Record of the Proceeding

Item 1 – Welcome and Introduction

a) Welcome by the Chair of the Forum

The Chair welcomed the participants, recalled the apologies for members not attending and announced proxies. The quorum requirement was met. The Chair also announced that she will step down as the Chair and a member of the Forum before Forum-6, as she has been offered a position at ECHA as a head the Forum team. She thanked the members for support and said she is looking forward to continuing the work with the Forum.

b) Address by the Executive Director of ECHA

The Executive Director welcomed the participants and congratulated the Forum for its work during the summer period. He noted the progress of the enforcement project and encouraged further on-site inspections. He also noted that ECHA has foreseen resources for the REACH Information Platform for Enforcement (RIPE) and that development will start in autumn. Funds have also been reserved for training for enforcement trainers and the Forum proposal for programme will be considered as soon as it is ready. The Executive Director also addressed the issue of national legislation implementing enforcement regimes for REACH and encouraged the Forum members from the five countries that have not yet implemented such legislation to take action on national level and put pressure on the responsible authorities. He also stressed the need for national measures for the enforcement of the CLP Regulation, encouraging the Forum members to take active role in ensuring that this legislation is ready in time. He also invited the members to consider if some harmonisation could be achieved by exchanging information on penalties already before implementing such provisions. He also noted the need for involvement of customs authorities in enforcement of REACH and encouraged that the Forum agrees on a common position as to what the customs authorities should enforce.

c) Adoption of the agenda and declarations of interests with regard to agenda points

The Secretariat gave an overview of the changes introduced in the agenda since its preliminary version, sent within the written procedure for the agreement on the open session at Forum-5. Changes were agreed and the Agenda was adopted. No conflicts of interest with respect to the Agenda points were announced.

d) Practicalities and brief recap of results of the written procedures between Forum-4 and Forum-5

The Secretariat made housekeeping announcements and recalled the results of the four written procedures launched and finalised since the last meeting. All procedures had ended in agreement by consensus.

e) State of play with action points from Forum-4 ECHA/Forum-5/2009/2

The Secretariat informed the plenary that most action points were resolved or covered in the Agenda of this meeting. One remaining point was the preparation of the Forum recommendations for amendments of the REACH Regulation. One recommendation identified at the previous meeting was about shifting the obligation to inform the downstream users about the establishment of the Only Representative (OR) from the

non-Community manufacturer to the OR. Another recommendation concerned the specification of documents needed in the flow of information on registration in the supply chain. Since last meeting a new proposal for amendment was identified by the Forum WG on cooperation with customs. The Secretariat proposed that the members further consider if more changes are needed and submit all proposals to the Secretariat by Forum-6 in December 2009. The Secretariat and the Chair will then prepare a letter with these recommendations which will be consulted with the Forum and agreed in written procedure before Forum-7 or at Forum-7.

The Commission (COM) informed that it is launching a contract to prepare a revision of REACH and that any Forum suggestions will be welcome and the proposed timeline for submitting these suggestions is acceptable. One member also asked when REACH will be revised. COM stated that the first revision is required in 2012 according to Article 138(6) of the REACH Regulation and the comments and issues from different stakeholders are collected in the context of the contract. All input will be considered, but COM cannot make any promises. Possibly some of the recommendations can be tackled in the guidance.

The Chair welcomed the possibility to submit input and asked the COM to inform the Forum about the developments of this contract.

Item 2 – Update on relevant developments by Commission

a) Update from CARACAL and other enforcement related issues

The COM representative gave the overview of the discussions in CARACAL. He stated that final, approved minutes of CARACAL meetings are now available on the COM website. Since minutes of each meeting are adopted at the following meeting, the minutes are published with a delay of one meeting. For urgent information, the members were asked to contact their respective CARACAL members.

COM reported that the Fee Regulation revision was considered, but decided that despite inflation, the current fees will be maintained due to the current economic situation. The new test method regulation has been published.

COM also addressed the interlinks between the Regulation 765/2008 on Accreditation and Market Surveillance (hereafter referred to as the “AMS Regulation”) and REACH, noting that they were described in the COM meeting document for CARACAL provided to the Forum in July. COM reiterated the message that Member States (MS) must prepare their AMS programmes by 1 January 2010. The concept of “Serious risk” was discussed by the CARACAL and some consideration was given to identifying what types of chemicals pose serious risk (e.g. substances subject to authorisation or restriction). COM also reported that it had not yet taken a decision on which electronic information exchange system will be used to fulfil the requirements of Article 23 of the AMS. COM will inform the Forum Secretariat when the decision is taken.

COM reported on the discussions regarding the format of the registration number in the Safety Data Sheet (SDS). COM will request the change of Annex II so that the last four digits are not required, but available on request to the enforcement authorities. Amendments will be submitted to the REACH voting Committee scheduled for 20 October. (Remark: Date of that meeting was changed to 9 November after the Forum)

The defence exemptions had been discussed with the European Defence Agency (EDA). It had been agreed that all issues of mutual recognition of such exemptions

will be taken forward by EDA because this Agency addresses the use of defence exemption jointly with other legislations which also contain such clauses.

In the ensuing discussion the Chair stressed that more definitive information is needed, especially with regard to the decision on the electronic information exchange system and the definition of substances posing serious risk. COM stated that the estimated timeline for the decision on the exchange system under Article 23 of the AMS is weeks, rather than months. Regarding the paper on AMS implications on REACH, COM committed to deliver the paper to the Forum at the same time when it is delivered to the CARACAL. The paper will, in particular, explain in more detail what is meant by 'serious risk'. In this context, later in the meeting, one of the members stressed that specifying the concept of serious risk will clarify when the enforcers will need to use RAPEX.

One member asked whether the revision of Annex II will allow for the full registration number to be available on request of anyone or just enforcement authorities and whether the Forum will be given the opportunity to comment on enforceability of the revised Annex II. COM replied that, subject to further confirmation, the request for full registration number can come from the MSCA and other relevant authorities, but not from general public. As for revision of Annex II, COM stated that it was unlikely that the Forum would be asked for its opinion independently. The feedback on the new wording of Annex II could be given via the national member of the REACH Committee (CA member).

The Chair noted that the Forum has the mandate to give comments on enforceability of matters referring to REACH and invited COM to reconsider the issue. In the concluding remarks she proposed that comments could be provided by the Forum on short notice or one member could be invited to the REACH Committee meeting. The Chair appreciated the input and update from COM and suggested to explore these possibilities later. The Forum expressed the importance of being consulted on the enforceability of the future amendments of the REACH Regulation, in general and the Commission agreed to keep this in mind.

b) Update on the penalties legislation notified to the Commission and the Commission study

ECHA/Forum-5/2009/3

COM informed the Forum that it has received 25 notifications of penalty legislations from all the EU and EEA Member States. Notifications from five countries were still missing and COM has initiated the infringement procedures against these countries.

COM also presented the study on penalty legislation it is carrying out. Its objective is to create an objective and exhaustive overview of penalties for the infringements of REACH and assist the Member States in arriving at harmonised penalties in the future. The overview will also include a comparison of the severity of penalties. Final report is due in December 2009. The preliminary observations were based on three analysed national pieces of legislation – Hungarian, British and French which were used to test the methodology of the comparison. The preliminary results show that there is a variety of enforcement regimes and tools (administrative, criminal or combined) and that there is little variance in types of penalties provided for - penalties for REACH are comparable to penalties for other legislations. There were also clear differences in the level of sanctions in the three legislations analysed. COM also invited the members to provide feedback with factual information about enforcement or experiences with applying penalties in comparable environmental legislation.

COM also gave brief feedback on another project regarding the reporting format for the MS reports under Article 117 of the REACH Regulation. The objective of the project is to allow MS to provide the relevant information to COM online. The questionnaire for MS was prepared and the input from the Forum on enforcement issues was incorporated in this questionnaire. This questionnaire was then consulted with all MS and comments were collected by 9 August.

In the ensuing discussion four members from the five countries that did not notify their penalty legislations to the Commission at the time of the meeting informed the Forum that their countries have already finalised or will shortly finalise these legislations. The fifth country has notified the COM of penalties in force in one of its regions.

One member noted that the results of the study may give incentive to companies to relocate their business, before the MS have the opportunity to harmonise the penalties. He also noted that the severity of the fines in legislation does not reflect how active the MS is in enforcing. COM stressed that the study looks only at the text of the legislation not other aspects but the Forum is the right place to discuss the results.

Another member from one of the three countries covered in the interim report noted that the interim report included a number of mistakes. The member suggested that the contractor should contact the Member States before starting to analyse their legislations as this could facilitate the assessment and clarify any unclear provisions thus avoiding mistakes. It was agreed that COM will forward the contact details of the Forum members so that contractor can contact them.

The Chair welcomed the information that all the five countries are advanced in their progress to have their legislations in force. She recommended that COM's contractor working on the project actively contacts all MS to clarify any questions on the national legislations and invited COM to arrange that the contractor provides a detailed report at Forum-6. In conclusion, the Chair remarked that the study is also a positive signal – industry knows that there are differences, but now the MS with the help of information from COM study will be able to take measures to harmonise their penalty legislations.

Item 3 – Practical issues for enforcement

a) Discussions raised by the Forum members

ECHA/Forum-5/2009/4

1) Enforcement of Article 5

The Forum discussed practical aspects and possibilities of enforcement of Article 5 of REACH – 'no data, no market'.

2) Stocks of unregistered substances

The Forum discussed practical aspects of enforcement of cases where companies have stocks of substances non-compliant with Article 5 and they no longer wish to manufacture or place these substances on the market.

3. Only representative

One member introduced the practical problem with lack of clarity regarding the responsibility of Only Representatives (OR) in preparing the SDS. Annex II does not

explicitly mention the OR and therefore it is unclear who should be specified in heading 1.3 of the SDS, when the substance is covered by the OR.

The legal advisor of ECHA clarified that according to the REACH Regulation the responsibility for the SDS is on the person who places the substance on the market. If it is the OR, it is his responsibility. According to the wording in Annex II, 1.3 to REACH the person identified in the SDS must be consistent with the identity of the registrant provided in the registration dossier. If an OR registers, he is also responsible for the SDS. In the case the Downstream User (DUs) is located in a different MS compared to the MS where the OR is located in the Community, the DU may also be mentioned in the SDS of the country of the DU, if the DU is responsible for placing the substance on the market in its country. For example, if the OR is in the UK and the DUs responsible for placing the substance in NO, the Norwegian SDS should also include the Norwegian DU in section 1.3 of SDS.

Members noted that the current wording of Annex II is not very clear. In conclusion the Chair proposed to recommend to COM to change of Annex II to make it explicit that the national DU responsible for placing the substance on the market must also be named in the SDS. It was agreed that Secretariat will add that suggestion to the list of amendment proposals prepared by Forum.

4. OR – location of expertise

One member inquired if the OR expertise can be brought from outside the EU, for different obligations of the OR.

The ECHA legal advisor stated that there are three criteria for ORs. Firstly, the OR must be established in the EU or EFTA-EEA States, secondly he must have sufficient background in handling chemicals and thirdly he must keep up to date information on quantities imported and customers sold to. The first criterion is fulfilled already when the company is established in an EU or EEA-EFTA State. The company can hire expertise, such as consultants, from third countries

5. OR - background

A member inquired about the opinion of other members on a minimum level of expertise for the OR.

The ECHA legal advisor stated that apart from what is written in Article 8, there is no further guidance from REACH or ECHA as to what the sufficient competence is. So a judgement from inspectors will be needed on case by case basis. However, the Forum may agree on general guidelines for the purposes of enforcement.

It was agreed that the Forum will prepare a discussion paper on minimum competences for Forum-6. Members were asked to submit their experiences and any information about national regulations in this matter within four weeks after the meeting. One of the members suggested that the ability to compile an SDS should be one of indicators of sufficient background.

6. AMS Regulation

One of the members wanted to discuss how the Member States implement the AMS Regulation and how they prepare their market surveillance programmes. It was decided that this topic will be discussed again at Forum-6, since this topic was also discussed by the WG on Minimum Criteria which will present its final report at Forum-6. It is also expected that COM will present more detailed information on interlinks between REACH and AMS.

7. Strictly controlled conditions

One of the members informed that she had been contacted by a national CEFIC member about the CEFIC guidance about the meaning of the strictly controlled conditions. The company stated that ECHA had made little comments on the guidance and the industry was intending to contact other MS to secure the approval of the document. The member voiced concern about the request to approve industry guidance. She also noted that the industry guidance seems to be inconsistent with ECHA guidance because it implies that meeting most other environmental requirements are deemed sufficient to constitute strictly controlled conditions. This would not be in line with REACH which requires “rigorous containment”. The member inquired how Member States will enforce the strictly controlled conditions bearing in mind that judgement on compliance with strictly controlled conditions will have to be made by inspectors.

ECHA explained that it has been approached by CEFIC and had provided its “courtesy comments”, not a formal approval. ECHA expressed major concerns. Key concerns were that:

- the CEFIC guidance introduces a concept of risk-based approach to rigorous containment and thus goes beyond what is in REACH and beyond what is in ECHA guidance.
- in ECHA’s guidance rigorous containment is intended to control risks. Rigorous containment can be achieved in different ways, but the CEFIC guidance proposes some specific suggestions about what it can be – this can be seen as a “shopping list” from which companies can simply choose one of the options presented. ECHA guidance requires first an assessment of rigorous containment and then clarification how, for example, workers exposure is kept below the occupational exposure limits.
- permits in other pieces of legislations are not equivalent to rigorous containment.
- the CEFIC guidance wrongly suggests that environmental threshold of no concern is an equivalent to PNEC. The guidance also introduces light hazard/risk assessment which is not foreseen in REACH or guidance.

ECHA stated that it is currently launching a project on exposure scenarios describing strictly controlled conditions and conditions controlling releases from article matrices in general and glass and ceramic frits in particular. One of the objectives of this project is to provide examples clarifying the guidance. The outcome of this project may trigger the need to update the guidance on registration of intermediates. It is expected that a draft guidance for consultation of the PEG would be available in the first quarter of 2010. Target for publication of the corresponding guidance is the summer 2010. Although some of the comments made by ECHA have been addressed by CEFIC in a revision of its guidance, ECHA’s major concerns remain. ECHA does not want to pre-empt discussions about it before the results of the aforementioned project are known.

In the ensuing discussion the Chair stressed that it is the responsibility of CEFIC to provide guidance compliant with REACH and if its guidance is incorrect it should be corrected. It was agreed that ECHA will provide its comments to the Forum members, so that the Member States will be able to give comments to CEFIC that are consistent with ECHA’s. It was also noted that this could be raised in the open session.

8. Restrictions

One of the members noted that the COM has not fully taken on board the advice of enforceability of Annex XVII regarding the inclusion of analytical methods in the entries. He noted that the Forum WG on enforceability of restrictions is now collecting methods used on national level in enforcement of restrictions for which the method is not specified in the entry. The WG will prepare an inventory, but the member inquired the opinion of the Forum whether harmonisation is required and who should do it. The second issue was that the current Annex XVII does not contain exemptions for the use of substances in electrical and electronic equipment, but since the ROHS directive is now under revision, this is not seen as an issue.

In the ensuing discussion it was clarified that the amendment of Annex XVII could be taken up by COM, but the Forum must first identify the need and initiate the process by informing the COM where there is a specific need for a harmonised method to be included in Annex XVII entry. It was also agreed that while the Forum is collecting methods used on national level COM will make a compilation of methods available at international level. The Forum agreed that there is indeed the need for harmonised methods in Annex XVII for the legal certainty and stability of inspections. Including the methods will help local inspectors, so the Forum will initiate the process with the COM. One member also mentioned the need for sampling methods, but it was clarified that for the purposes of the present exercise only laboratory methods will be collected. In the concluding remarks the Chair stated that once the methods used for Annex XVII have been sent to COM, COM should also take into account the methods specified in the ROHS Directive when considering harmonisation.

Item 4 – WG Progress reports

a) Prioritisation and Forum project for 2010

ECHA/Forum-5/2009/5

The Chair of the WG gave an overview of work of the WG since last meeting. The WG had revised criteria for prioritisation taking into account comments from the Forum. It also revised the project proposal template and descriptions. The WG held a meeting in August and agreed on three key criteria: firstly relevance for REACH, secondly risk of non-compliance and thirdly feasibility and added value. The last criterion was introduced to take into account organisational considerations such as excessive costs required, extensive coordination required and whether the capacity of enforcement will be increased. The WG also agreed on the method for prioritisation. Questionnaire was dropped because in the judgement of the WG it raised more problems than it solved – it would not remove the problem of subjectivity and could not treat the considerations comprehensively (limited questions). The WG decided to opt for expert judgement when applying the three key criteria. The WG also considered that the next project will not be possible to start before second half of 2010, because national coordinators engaged in the first project should be free and available when preparing the manual for the second project.

In the following discussion the WG Chair clarified that for Forum-6 the WG will prepare a shortlist of projects and recommend one of them, while the Forum will be free to choose any. One of the members asked for justification why the presented criteria are necessary and sufficient. The WG Chair explained that the WG presented a more exhaustive set of criteria in April, but the Forum asked to make a more concise version and the WG reduced it to key elements. Even though criteria could always be

further expanded it would not necessarily result in different prioritisation. The WG Chair also stated that numerical/scoring approach was abandoned because raised too many questions. Current criteria are still the same criteria and will allow making reasonably objective judgement. When presenting the shortlist WG will justify why each project was placed on the shortlist or not according to the three criteria. A table will be presented with judgements and deliberations for each criterion and each project. As for risk of lower participation, it is mitigated by the criterion of feasibility which automatically filters out the projects that are exceedingly expensive. The members also inquired if the WG applied the criteria to REACH-EN-FORCE-1. The WG responded that this was not done, but it would score high since the provisions it tackles are of high relevance, there is high risk associated with non compliance and low costs of carrying out the project.

The WG report with prioritisation criteria was adopted. The Forum also decided not to publish it before the criteria are actually used. The matter of publication will be reconsidered later when the Forum selects its next project(s).

b) REACH-EN-FORCE 1

ECHA/Forum-5/2009/6

The WG Chair reported on the progress of the project since last meeting. The ECHA has published a press release about the project and prepared a CIRCA interest group for coordinators, but so far hardly any input has been given by the coordinators. A new version of the web tool for collecting responses was also prepared and the number of participating countries has grown to 28. Preliminary results were collected via a questionnaire on the preparation, training, company selection and check of questionnaires. Eighteen from twenty eight countries had responded, most of them had started preparation and training while eleven had started inspections.

The WG Chair observed that five countries still had not informed the WG about the mode for data collection – web tool or the excel questionnaire. The WG Chair invited the members to make their choice and encouraged the members to instruct the coordinators to use the CIRCA interest group as it is one of the tools provided for the project.

In the ensuing discussion seven countries that did not submit their report to the WG informed the plenary that the inspections in the project already started or will start in September 2009. One country reported institutional and resource difficulties. With regard to the use of CIRCA the members explained the lack of use with a number of reasons such as need for translation of questions, no experience in inspections (inspections about to start), lack of experience in use of CIRCA, and lack of clarity as to what questions can be put on CIRCA and if it is secure.

In response the Secretariat noted that the guide on using CIRCA was provided to all coordinators and security concerns only apply to data from the list of pre-registrations. Any other questions not containing this data could be posted on CIRCA. The WG Chair also stressed that not all questions should be put on CIRCA – coordinators should answer these themselves. Only the difficult questions should be put on CIRCA.

One member also noted that the information exchange system is needed to exchange confidential information between inspectors. The Chair noted that the exchange system is a subject of another WG. In the meanwhile the members were encouraged to use the existing tools and submit the future progress reports in time.

c) Electronic information exchange system (EIES)

ECHA/Forum-5/2009/7

The WG Chair provided an update of the recent tasks of the WG. The report was interim since the WG was awaiting the final decision of COM on the choice of information exchange system under Article 23 of the AMS Regulation. The WG waited for this decision because that decision should impact on the choice of EIES for REACH. The WG has also drafted the list of data to be exchanged in the EIES. The list emphasises information on non-compliance. The WG also prepared a descriptive survey of existing systems, but could not compare them as members had no access to the different systems. The Chair noted that ICSMS seems suitable to transmit REACH enforcement related information and that preparation of a bespoke system will take long time. The WG Chair also stressed that the WG has not received any comments from the Forum about their experiences with ICSMS and invited the members to submit them as soon as possible. The WG Chair asked the Forum to extend the WG timeline until Forum-6 and add an IT expert to the WG.

The WG Chair informed the plenary that the list of data will be distributed for comments after the meeting WG recommends approving the data list and also looking into which data fields are to be translated.

In the ensuing discussion members expressed their concern about too easy acceptance of the existing system without checking whether it is secure and explaining clearly what its cost would be. It was also stated that KSS is currently used by Health and Safety inspectors and by SLIC with very good results. The WG Chair replied that ICSMS owners say it is secure and costs are 420 000 Euro per year divided between states according to number of seats in the European Parliament (larger countries pay more, smaller pay less). The Secretariat clarified that the level of security depends on the data to be exchanged and appropriateness of security level of ICSMS will have to be assessed by ECHA when the list is final.

One member stated that its REACH enforcement agencies already use ICSMS successfully for inspections. Experiences are positive as it is a secure and easy system. It fulfils many needs of REACH inspectors already now and further adaptation is possible. The members also stated that ICSMS is established in 11 member states with translations in their respective languages. A new system would be costly and time consuming to build.

Another member asked if ICSMS is preferred by the WG. The WG Chair clarified that it is not a final choice, but the WG finds it suitable for purposes of exchange of information on REACH.

COM reiterated that the decision is not there and stressed that the decision of the WG and the Forum on the EIES for REACH should be independent of the decision of COM on which system is suitable for the AMS Regulation. While it is clear that there are synergies and advantages of using one system and not two, the decision of the Forum should be based primarily on suitability of the system to exchange data relevant for enforcement of REACH.

In ensuing discussion the members noted that costs of the system for Member States should be similar to those associated with RAPEX but that elaboration of RAPEX took a lot of time and resources. Another member stressed that the system should be free. It was also pointed out that the Forum should be very clear about what needs to be exchanged because RAPEX is for products implying health hazard. The EIES for REACH should allow for transfer of information on violations of REACH even if

they do not constitute a health hazard. The member also suggested that the list of data for EIES for REACH should not only cover data to non-compliance related to substances but possibly other data as well.

In discussion members also asked for clarification of relation between RIPE and EIES, especially regarding the purpose and target groups. The Forum Secretariat clarified the RIPE and EIES will both be targeted at inspectors, but their purpose is different. RIPE is, for the moment, intended only to access data from ECHA – information flows only from ECHA to inspector. WG on REACH-IT access suggested to add to RIPE some “exchange-like” functionalities but the Forum will have to decide whether this is wanted and then ECHA will examine if that can be accommodated. For the time being, the systems are separate and RIPE is meant for retrieving information from ECHA and EIES will be meant for exchanging information between inspectors.

The Forum found it premature to adopt the list of data and members were invited to submit comments in four weeks. In the next step ECHA will consider the security level needed for that data. The WG was invited to continue its work until Forum-6.

Item 6 – WG Progress reports (continued)

a) Minimum criteria for REACH inspections

ECHA/Forum-5/2009/8

The WG Chair gave an overview of activities the WG has carried out in summer. It met once in August and addressed a number of issues in the draft document. Firstly it looked into the level of formality – whether the minimum criteria should be formal like the RMCEI recommendation or be an internal document of the Forum. It was decided that adoption by the Forum and publication on ECHA website will be sufficient, as the minimum criteria will be regarded as best practice. Regarding the level of detail the WG decided to go for a high level document since very specific and detailed guidance for inspections will be produced as a consequence of the coordinated projects. The WG decided to address the document to enforcement authorities and other public authorities whose activities impact upon REACH inspection, rather than Member States, because they are the ones responsible for conducting the inspections. The WG also considered consistency with the AMS but further work is ongoing. Links were identified with the documents on enforcement strategies, input for MS report and EIES, but were kept at high level. The next steps are preparation of the second version of the document, commenting round in time before Forum-6. There were no comments from the floor.

b) Enforceability of restrictions

The Chair informed the plenary that the WG has not been active since Forum-4 because there were yet no proposals on which advice could be given. Moreover under the second task the deadline for collection of analytical methods from the Member States was still ahead – 15 September. The Chair informed that the first meeting could take place in mid October.

The members inquired about the format in which the methods should be reported. It was agreed that the template and an example will be distributed to members after the meeting.

Item 7 – Cooperation with customs

a) Cooperation with customs

ECHA/Forum-5/2009/9

The WG Chair gave an overview of the activities of the WG since the last meeting. The WG met in summer and addressed two tasks of its mandate. To develop a practical recommendation for customs authorities, the WG is starting its work on a procedure for checking compliance with Article 5 of REACH by the customs authorities. The procedure will be developed for Forum-6. To enforce Article 5 of REACH, customs will need a legal basis, which could be obtained by introducing an obligation in REACH to place the registration number in the customs declaration form (Single Administrative Document). The WG recommended that this proposal is added to the list of amendment proposals collected by the Forum. In the context of preparing a recommendation on cooperation between customs and other enforcement the WG intends to collect information on existing practices of cooperation with customs. The information will be collected by means of a questionnaire for the Forum members. The one task that the WG did not address fully was to analyse the provisions of REACH and the Community Customs Code (CCC) and examine interlinks between the term importer in REACH and obligation holders under CCC. The WG concluded that identification of the importer is not necessary for customs authorities and it would be more poignant to identify in which customs procedures REACH enforcement could take place. Therefore the WG Chair requested to change the mandate of the WG.

A member of the WG then presented a questionnaire for the Forum members, which is intended to give the WG a realistic assessment of what kind of arrangements could be expected.

In the ensuing discussion the WG members clarified that the questionnaire should be answered by each Member State and that Forum members should liaise with any relevant authorities, especially customs. It should be answered taking into account only cooperation related to REACH not other legislations. It was agreed that members will provide answers by mid October.

One of the members also inquired about how the customs will know whether registration/pre-registration is applicable in a certain case. There could be exemptions, e.g. for substances imported in quantities below 1 tonne per year. The absence of a registration/pre-registration number on the SAD (Single Administrative Document) would therefore be legitimate but its absence could cause problems, for instance the shipment being delayed. In such cases further information would need to be included in SAD to explain why the registration number is not included there. The WG Chair stated that the WG has discussed that issue and will try to find a solution.

The Vice-Chair asked about the activity of the support group. The WG Chair replied that the support group was not active in the period since last meeting, but this may be due to holiday period. The members also inquired about the input of COM Directorate General Taxation and Customs Union (DG TAXUD) in the work of the WG. The Secretariat noted and welcomed the active involvement in the consultations of various documents. DG TAXUD representative stated that there are colleagues interested in supporting it. The Chair invited DG TAXUD to put pressure that REACH is put on the agenda of the Customs Code Committee so that the Forum could persuade the committee of the importance of enforcement of REACH.

b) Presentation of the work on ECICS database (DG TAXUD)

The DG TAXUD representative gave a presentation on possibilities of control of REACH by customs. There are a number of difficulties associated with control of registrations under REACH such as numerous exemptions or specific conditions when the obligation applies. The key problem, however, is that it is impossible to

unambiguously identify all substances using the Combined Nomenclature (CN) codes, because only some have individual codes. To allow integration of REACH in the TARIC database there will have to be a legal basis, such as requirement to include the reference number or a CAS or EC number in the SAD and the Forum will need to clarify for TAXUD what exactly should be controlled. The new version of the ECICS database is under development and it may be considered if it could contain, for example, the registration number. As regards the CLP a key question remains to be answered whether customs will be involved in enforcement of CLP. In principle ECICS is ready to store CLP relevant information, but it would need to be clarified what information should be included there. TAXUD is also thinking to set up a central repository of customs declarations which would, for example, allow to check the volume of goods imported by a declarant. The TAXUD representative finally informed the Forum about the seminar of customs chemists taking place in Helsinki in June 2010 including a session on REACH and CLP.

In the ensuing discussion the members appreciated the difficulties faced by the customs authorities. The TAXUD representative clarified that control by customs is possible and a solution could be to go for partial implementation - selecting specific sets of the CN codes that need to be checked, because some entries are easy to flag. One of the members suggested that a good start for customs control would be to focus on substances subject to restriction and authorisation. If controlling REACH requires more than focusing on specific CN codes – for example checking data in RIPE – then it will take longer for customs get involved. Members asked if customs control is triggered only by flag in the TARIC, so if there is no or wrong code in the declaration, it would result in no control. TAXUD clarified that it depends what is integrated in the TARIC. Apart from indicators from the declaration (flagging certain codes) risk analysis is also used but its parameters (CN classification, country of origin, specific company) are confidential. Usual customs control is done using only TARIC so it depends how the criteria that trigger control are defined in TARIC. If one full chapter is indicated, then each import of product with the code of that chapter will be checked automatically. Therefore when setting flags one must be careful not to have too many false.

The Chair noted that customs often contacts the DNA (Designated National Authority) when controlling the PIC Regulation. TAXUD stated that controls of PIC substances are such that any import is automatically blocked if there is no relevant data in box 44 of SAD.

A member asked about control of tonnage. TAXUD replied that currently checks of tonnage are practically impossible. Very few substances are classified individually, most are classified as “other” and bundled together which allows for very general statistics. Maybe in future if a global repository of declarations is available it will be possible.

The Chair concluded that control of REACH will be a challenge for customs, as REACH and Customs use different languages. The Forum must be clear what we want and give input to TAXUD about the data that will be included in databases and tools that it develops.

Item 8 – REACH-IT

a) Progress report from the WG Chair

The WG chair gave a brief overview of the work of the WG since last meeting. The WG has developed a detailed description of RIPE interface. The WG Chair presented

the proposal of the WG for basic search, advanced search and facility to include CASPER reports. The WG has prepared an initial list of characteristics on the basis of which the CASPER reports would be generated. In addition, the WG listed the articles of CLP that could imply data needs for RIPE. This list will need to be developed further to indicate the actual data needed. Lastly the WG prepared a suggestion for additional data and functionalities for RIPE for consideration by ECHA. Additional proposed functionalities include the possibility to leave feedback on submissions with results of inspections and a discussion forum for inspectors to share enforcement experiences.

In the ensuing discussion the members asked why the feedback facility is needed. The WG Chair explained that the idea was to allow enforcers to learn from one another and see if a company was already visited.

The Forum discussed about the “information exchange” functionalities in RIPE. One of the members inquired if the WG thought that a more general information exchange system was needed. The Forum Chair remarked that that RIPE is now only for access to information in ECHA and ideas about information exchange should be provided to the WG on information exchange since it was established to deal with these issues. Three further members voiced their support for clear division between RIPE and EIES. A member voiced her support for the idea that there is a “feedback mechanism” and indication in RIPE if an inspection was done and another member remarked that exchange of information in RIPE would be a good idea because it would allow for secure exchange of information.

One member stated that he did not agree with the suggestion to allow MSCAs to access RIPE because MSCAs are not the same as enforcement authorities in some countries and results of inspections are confidential.

In conclusion the Chair took note of the progress but expressed doubts about the necessity of further “information exchange” functionalities, which should be investigated by the WG working on EIES group. She also noted that there are doubts about MSCA access to RIPE and this contentious issue should be taken into account when roles of different authorities in enforcement process are elaborated in the paper on “borderlines”.

b) Update on the development of RIPE (ECHA)

The Forum Secretariat gave an overview of the progress in formal set up of the RIPE project at ECHA. The presentation focused on work packages planned, estimated resources and timelines for the project and for consultation of the WG. The Secretariat stated that the target deadline for delivery remains the end of 2010. However, the timeline is the key risk of the project and in case of problems key functionalities would be delivered first and non-critical ones would be delivered later.

In the ensuing discussion a member asked about safeguarding confidentiality in case contractors are involved. ECHA clarified that contractors are required to sign declaration of confidentiality. Another member asked if user administrators will be required to train the users. ECHA responded that since user administrators will be trained in the use of the system, they will be best placed to further spread this knowledge on the national level.

c) Brief update on MSCA access to REACH-IT (ECHA)

The ECHA Secretariat gave a presentation about the status of access of MSCAs to REACH IT. The plenary was informed that the Management Board, at its June meeting had approved the general approach to access of MSCAs to REACH-IT, but

the declaration for MSCAs and security requirements were still subject to revision. Consequently the security requirements for RIPE were not approved, because they were in many aspects similar to MSCA requirements, albeit less strict. The MB agreed to provisionally grant access to MSCAs that sign the existing version of the declaration. At the time of the meeting four countries had signed such declaration.

ECHA also mentioned the consultation of the Forum regarding security requirements for RIPE. The Forum's comments focused on the feasibility of implementing some of the requirements in small local inspectorates (security staff at the main entrance, encryption of transferred data and annual audit.) All comments were considered and most of them were implemented. A detailed response to comments has been distributed on 7 July

In the ensuing discussion it was clarified that MSCAs can sign the declaration whenever they are ready and fulfil the conditions specified in the security requirements. In conclusion the Chair stressed that update on status is welcome but discussion on problems with connection should be done at another fora. The Chair also invited the members to ask their MSCAs when they intend to sign the declaration and obtain access.

Item 9 – Preparation for the discussions with stakeholders

The members discussed the documents and subjects submitted by the stakeholders.

Section 2: Open session for stakeholders

Item 10 – Discussion with stakeholders

The Chair opened the open session and welcomed the present stakeholders. Only a few proposals for discussion topics had been received but they were good and the Forum agreed to address all of them. The subjects proposed by a Forum member were related to CEFIC proposals and therefore CEFIC was asked to introduce the items.

1. CEFIC guidance document on OR and imports

2. CEFIC/CONCAWE guidance document on treatment and processing in free zones

ECHA/Forum-5/2009/11

ECHA/Forum-5/2009/12

The CEFIC representative presented two guidance documents prepared by the association. He explained that the industry prepared its guidance documents because the legal text is very complex and the existing guidance does not always explain all aspects of the legal text.

The guidance on treatment and processing in free zones describes example cases of import where substances go through customs supervision for further distribution on the Community market or for re-export to third countries. For each of these cases the guidance indicates which of the actors should be a registrant.

The guidance on imports also describes a number of example supply chains where substances are directly or indirectly imported into the EU. The cases are based on real examples and are especially complex when mixtures are imported. The matter becomes even more difficult where there are complex supply chains in non-Community countries. For such cases the CEFIC introduced the concept of 'the Trustee' to inform the OR about the tonnages of specific customers and protect market-sensitive information. For each of the examples the guidance indicates which actor is the registrant.

After presenting the examples the Chair opened the floor for questions.

One of the members inquired how the diagrammes were done and if there had been public consultation. CEFIC explained that its working groups include jointly around 300 people acting on different aspects. For example some WGs look only on OR issues (15-20 companies). Input is submitted by individual companies. Flowcharts in the guidance describe different actually practices used by companies. CEFIC does not judge which are preferable, just checks the compliance with REACH and the guidance.

In further discussions it was clarified that ECHA logo must not be used in CEFIC presentations and other documents in order to respect ECHA's intellectual property rights, only the name can be used.

Members were impressed by the work done by CEFIC, but stated that inspectors will make their decision on the basis of the legislation and ECHA guidance. The documents will also be examined by the WG on cooperation with customs.

Members also remarked that CEFIC guidance should be more rigorous with the use of REACH terminology to ensure common understanding. In particular the word "company" was used in many different contexts and should, whenever possible, be replaced by an appropriate REACH term to clarify what actor the diagramme is referring to.

3. First experiences with enforcement of REACH

ECHA/Forum-5/2009/13

The CEFIC representative gave an overview of the first experiences of the member companies with the enforcement of REACH. The first issues referred to the activities of the customs authorities who were asking companies to provide pre-registration numbers although there is no legal obligation to communicate such number to anyone. Furthermore customs authorities were requesting REACH certificates which are also not specified in legal text. Despite this, some goods were blocked for a time and in one case even storage costs were charged. CEFIC recommended training for custom authorities and clarification of what documents are needed for enforcement.

The second issue reported was that some inspectors were not aware of the approach agreed at Commission Working Group Subgroup on Enforcement regarding the enforcement of inversion of headings 2 and 3 in the SDS. The problem will likely continue because most companies use software to prepare SDS and it would need to be updated.

The third issue concerned timing of late pre-registrations. The requirement is that late pre-registration must be submitted not later than 12 months before the relevant registration deadline. This hinders toll-manufacturing as toll-manufacturing companies do not always know what they will produce one year in advance.

The fourth issue was a high number of pre-registrations of ELINCS substances, possibly submitted by companies who produced the substances without placing them on the market. CEFIC encouraged enforcement to look into these cases.

The fifth issue was fraudulent use of information obtained from REACH-IT – it has come to the attention of CEFIC that some companies sell information they obtain in pre-SIEFs and CEFIC inquired whether enforcement authorities could act against such practices.

In the ensuing discussion a member inquired if the information could be more specific in which countries these cases happened and whether these are exceptions. CEFIC

replied that it has on purpose not mentioned countries or companies and that they were contacted individually. It was also clarified that the cases described were an exception not a rule. So far CEFIC had generally positive feedback from countries that had started inspections.

The members discussed the cases of selling of confidential data from pre-SIEFS and ECHA was asked if measures were taken to mitigate it. ECHA replied that it takes confidentiality very seriously, especially the data arriving in the registration dossier. But in case of pre-registration companies could pre-register any phase-in substances and were obliged to accept the declaration of confidentiality. There were cases of consultants pre-registering 100 000 substances, even though they were not manufacturing or importing them. ECHA has taken action, informed the COM and MSCAs and published press releases. Some consultants were blocked to prevent such behaviour. However, it is not in ECHA mandate to block companies that pre-registered. While it is true that some companies have abused the system, this is because of how pre-SIEFs are organised. That is why it is now being brought to the attention of enforcement authorities.

One of the members agreed that such behaviour is indeed a problem visible in some MS and it is not in the spirit of the REACH Regulation. However it is unclear which REACH provision it violates. Another member stated that a pre-registration is an indication of intent and enforcement cannot penalise for unnecessarily or wrongly indicating intent. If such behaviour is a violation, then it probably violates intellectual property rights, not REACH. Therefore REACH enforcers cannot enforce against that.

CEFIC clarified that such practices were carried out by four to six companies, one of them large, who were aggressive in their actions and blocked legitimate activities in the SIEF.

The Chair concluded that, regrettably, such abuse cannot be penalised by REACH enforcers, but that the Forum took note of the issue. Regarding guidance the Chair reiterated that inspectors will use ECHA guidance documents, but it is also interesting to see how industry works. She thanked the stakeholders for input and useful discussion.

Item 11 – CLP Regulation – issues for enforcement

The ECHA Secretariat gave a general overview about the activities of ECHA under CLP and key issues relevant for enforcement. Substances will need to be classified and labelled according to CLP by 1 December 2010 and mixtures by 1 January 2015. ECHA has now published module 1 of the CLP guidance for basic overview. Handling of requests for alternative names for formulators of preparations will now be done by ECHA. Obligation to notify the classification and labelling to ECHA applies with no tonnage threshold and applies to all actors placing a substance on the market. Information to be notified is different than under the old regime – dossiers contain about 200 IUCLID fields per notification. The new classification criteria (including concentration limits), transitional periods and labelling rules were briefly explained.

In conclusion ECHA recommended that enforcement may control classification and labelling in the SDS, whether classification is documented and if it is correct. The same applies to correctness of labelling. Inspectors should check if the classification and labelling were notified to the ECHA inventory and whether use of alternate name authorised.

In the ensuing discussion COM remarked that the 1st ATP is already incorporated in the CLP. Member States must notify their penalty legislations to COM by 20 June 2010. COM stated that reminding letters will be sent, but encouraged the Forum to put pressure on national decision makers so that these legislations are implemented and notified in time.

Item 12 – REACH enforcement in the MS

- a) *Organisation of enforcement in Cyprus*
- b) *Organisation of enforcement in Italy*
- c) *Organisation of enforcement in Poland*

The members presented organisations of enforcement in Cyprus, Italy and Poland.

Item 13 – Update on relevant developments by ECHA

- a) *Update on Guidance developments*

The ECHA secretariat gave a presentation about ECHA's activities related to guidance. As regards guidance on Annex V the PEG has been active in summer and the Forum consultation was foreseen for the end of October. The opinion of the Forum on the guidance on requirements for substances in articles will be sought before the end of the year (probably shortly after the next Forum meeting). The presentation also covered activities in relation to guidance documents on waste and recovered substances, on information requirements and CSA, on CLP and on risk communication. ECHA is also considering standalone guidance on SDS. Ideally this guidance should be ready two months after publication of updated Annex II.

One of the members asked about the timeline for availability of translations of the guidance. The ECHA Secretariat replied that as a general policy ECHA translates guidance documents that are especially relevant for SMEs. For the more technical guidance, only part is translated, since for technical knowledge readers need to know English anyway. There are also the brief documents called guidance in the nutshell that are intended to bring the information to the level of SMEs. No precise information on timing for translations was available at the meeting.

One member asked about when the guidance on SDS will be available, whether it will be done in collaboration with industry and who will be the target audience. ECHA Secretariat responded that the SDS guidance will be prepared together with the industry, but not only CEFIC. MSCAs will also be involved. Once the technical section of the guidance is finalised, it will go through the ECHA guidance consultation procedure with committees and CARACAL. Only after having passed this consultation process the document can become ECHA guidance.

It was agreed that more detailed information on when the translations of the guidance will be available will be delivered to members after the meeting.

- b) *Update on the restrictions developments*

ECHA/Forum-5/2009/14

The ECHA Secretariat gave a presentation on the registry of intentions. It explained that the registry of intention (ROI) is a list where MS indicate their intention to submit an Annex XV dossier with a proposal for restriction. The objective of ROI is to allow ECHA committees to plan the work in advance and avoid duplication of dossiers by Member States. Also interested parties can at this stage provide information to the MS or ECHA who is preparing the dossier. MS are required to submit the dossier within twelve months from notifying the intention. ROI includes current intentions, dossiers submitted and withdrawn intentions. Current intentions for restriction dossiers come

from FR who indicated it will submit two dossiers in mid-April 2010 and from Norway who will submit a dossier on the mercury compounds in mid-June 2010. The Forum WG on Enforceability of restrictions was invited to take note of these intentions to be ready to give advice when ready.

COM then gave an update on its recent restrictions related activities. The revised Annex XVII was adopted in June. Amendment of Annex XVII for prohibition of sale of CMR 1a and 1b to consumers will include nickel compounds and borates, but COM will propose that borates are excluded, since the study on risks to consumers indicates that borates do not pose such risks. COM has also launched a study to re-evaluate health hazards of ammonium salts and asked ECHA to review all new scientific information on phthalates to evaluate if the restriction needs to be reviewed. The restriction on use of mercury in thermometers will be reviewed to see if it needs to be changed. COM also mentioned future amendments to Annex XVII and that CARACAL held a lively discussion regarding the enforcement of restriction on use of Chromium VI in cement.

There were no questions from the floor.

The ECHA Secretariat then briefly presented revisions in the Forum working procedure on restrictions. The revised procedure takes into account the actual length of a month instead of four weeks per month as originally assumed in the previous version of the procedure. A few corrections and clarifications were introduced, such as the name of WG was corrected, circumstances under which it is meaningful for the Forum to provide its final Forum advice and implications of Article 71(3) of the REACH Regulation were clarified, etc. The changes result in prolongation of the final Forum consultation by one week. The Forum adopted the revised working procedure.

Item 15 – Follow up from the open session

a) Follow up from the discussions with stakeholder organisations

The Chair recapped the discussion with stakeholders from the open session and noted that stakeholders were clearly keen to get involved and exchange views on the enforcement. She then opened the floor for comments on the open session and future cooperation with stakeholders.

One participant noted that it is very useful to have such sessions and hear from industry what they believe is effective and proportionate enforcement – they have a lot of experience about industry and the Forum could use that knowledge. It was agreed that this will be asked of the stakeholders when they are asked to provide discussion topics for Forum-6.

Another member also noted that stakeholders' documents arrived late and for the future they should be asked to submit their documents well in advance of the meeting to enable Forum members to properly plan their responses.

The members also discussed the meaning of Article 77(4)(g) and how to arrange liaison with stakeholders so that the discussions are comfortable and open. Members suggested that the liaison require discussion, listening and will to understand from both sides. It was also suggested that asking about expectations of the stakeholders could make it easier to think of a new formula for the liaison.

The ECHA Secretariat suggested that ECHA has more than 40 stakeholder organisations keen to follow its work and that CEFIC represents only a small section of the industry. For SMEs it is a big strain to send someone to Helsinki, so the open sessions of limited duration are not the best solution for them. Therefore different ideas on how to organise liaison should be considered. A workshop could be a

solution. The idea of the workshop was welcome by the members. It was suggested to hold it after finalisation of REACH-EN-FORCE-1 and back to back with Forum meeting. Longer workshop would also allow saving time on Forum plenary meetings.

One of the participants mentioned that he was approached by tyre manufacturers association who suggested an enforcement project and offered to support the costs of sampling and testing in such project, and that such practical cooperation could be a good example of liaison. The members stressed that the proposal for tyre manufacturers has already been submitted to the WG on prioritisation of projects and that the project proposed would be aimed against their non-EU competitors.

The Chair inquired about other aspects of the session, in particular whether the Forum should or should not get involved in the discussions between ECHA and stakeholders, for example on strictly controlled conditions.

A member suggested that when it comes to discussion between ECHA and stakeholders on industry guidance the Forum should trust ECHA to ensure that all necessary comments are provided to industry so that they can bring their interpretation in line with the legislation. Industry guidance can heavily impact on the work on enforcement – such as the old guidance on classification and labelling by AISE – so the Forum should be informed on the discussions and developments that ECHA is conducting with stakeholders.

The Chair thanked the members for useful discussion and concluded that the open session was a good example of collaboration between the stakeholders and Forum. She thanked members for the ideas on how to improve the liaising with industry and invited the members to submit any further ideas on this subject by email.

Item 16 – Update on cooperation with other networks

a) Update on the operations of SLIC CHEMEX WG (CHEMEX)

The representative of SLIC CHEMEX Working group gave a presentation on recent activities of the WG. Work Stream 3 on tensions and synergies between REACH and Occupational Health and Safety Directives was finalised in August 2009. The remaining work stream 4 concerns the information exchange system for national labour inspectors (NLI). The CHEMEX also had similar discussions as the Forum about what information NLIs need to exchange. CHEMEX decided to focus on exchange of information on best practices rather than cases of non-compliance. However, since the Forum will eventually establish its EIES and NLIs will enforce REACH, then CHEMEX would opt for the same system as chosen by the Forum, provided that it meets the CHEMEX requirements. Since the Forum has not yet taken this decision CHEMEX will reflect on its next activities. So far NLIs in Member States have been using CIRCA-based Knowledge Sharing System (KSS), as it fulfils the CHEMEX needs for exchange of information on best practices.

In the ensuing discussion it was clarified that the Forum WG on EIES did also consider KSS but found it inappropriate for the purposes of REACH since it requires one national coordinator per country, it is CIRCA-based so cannot be used to transfer confidential information and is not optimised to transfer information on non-compliance.

In conclusion the Chair noted that probably the information on non-compliance that would be exchanged by NLIs and other REACH inspectors would be the same and all REACH inspectors will need to exchange the similar information, therefore it is best to await the decisions from the Forum WG on EIES and the COM.

b) Update on cooperation with ROHs Network, CLEEN and IMPEL (Secretariat)

Secretariat gave an overview of the current status of communication between Forum, ROHS, CLEEN and IMPEL.

ROHs network received a letter inviting cooperation on projects related to substances in articles and promised to deliver the reports of its projects after its meeting in September.

CLEEN held a conference in May 2009 where it concluded the e-commerce project. It is now running the EuroBiocides and EUNIK projects and may follow up with EuroBiocides and e-commerce projects. CLEEN also responded to the Forum letter that it is open for cooperation with the Forum, especially regarding specific projects and in cases where expertise in other chemicals legislation is needed. The decision on CLEEN secretariat has not yet been made.

IMPEL will hold a conference in late September where the Forum Secretariat will deliver information materials, posters and a roll-up on the Forum and its activities

Item 17 – Work Programme progress check

a) Review of existing WG mandates, if necessary

The mandates for the following WGs were revised

- Access by inspectors to data from REACH-IT (B3)
- Electronic information exchange procedure (B4)
- Preparation of the Forum enforcement project for 2010 (B8)
- Cooperation with customs (B7)

Members were asked to communicate the names of new experts within two weeks. The revised mandates are included in Annex 2

b) Overview of changes necessary in WP

It was agreed that the Secretariat will revise WP, send for comments and adoption in written procedure.

Item 18 – Conclusions and action points

The conclusions and action points of the meeting were adopted by the Forum and included in section II of the present document.

Item 19 – AOB

a) Progress report on the preparations for train the trainers programme

The members who had volunteered to prepare a workshop for enforcement authorities reported on their work. The members had collected materials and liaised with the Secretariat. It was agreed that a draft programme for one day training will be prepared. One of the members stressed that since the workshop will be training for trainers the Forum does not need to prepare materials for inspectors, but material that will allow trainers to prepare training materials on national level.

It was agreed that members will provide contributions to the draft programme by 2 October and that the three members preparing the first draft will prepare final programme for the workshop by 13 November.

b) Meetings in 2010

The plenary agreed to have two meetings in 2010. The following dates were agreed for these meetings:

- Forum-7: 18-20 May 2010
- Forum-8: 12-14 October 2010

c) Enforcement on ECHA website

The Forum Secretariat has presented a development version of a revamp of the Forum section of the ECHA website. Enforcement would now be a separate section on the ECHA website containing one division for the Forum and one for the national enforcement authorities. The new site would contain general information on enforcement authorities in the Member States and links to relevant websites of national enforcement institutions. Members were invited to prepare the text about their national enforcement arrangements and provide versions of presentations on organisation of enforcement that would be suitable for publication.

The members agreed to the new proposed website and agreed to provide the requested inputs by 30 October.

Members also inquired about a link to a consolidated version of REACH. ECHA committed to find a link to a consolidated version of REACH on the COM website and investigate if it can be placed on the ECHA website.

Item 20 – Closing of the meeting

Before the end of the meeting, the Vice-Chair thanked the Chair for her excellent work as a chair in the first two years of existence of the Forum. He stressed that the Chair has conducted the work of the Forum in a professional, yet very charming and tactful manner, being always balanced and circumspect in judgements and recommendations. The members thanked and applauded the Chair. The Chair thanked the members, Vice-Chair and Secretariat for their support and looked forward to future cooperation.

The Chair thanked the participants for their contributions and closed the meeting.

II. Conclusions and action points

Forum-5 ACTION POINTS & MAIN CONCLUSIONS – 8-10 September 2009 (adopted at Forum-5)

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
AP 1 – Welcome and introduction		
1.a) Welcome and introduction	-	-
1.b) Address by ED	-	-
1.c) Adoption of the Agenda	-	-
1.d) Results of Written Procedures	-	-
1.e) State of play with action points from Forum-4	The Forum agreed to prepare a letter to the Commission proposing amendments to the REACH Regulation.	Submit proposals for amendments to the Secretariat / Forum members / Forum-6 Draft letter / Forum Chair and Secretariat / January 2010 The Forum to be informed on the timeline for giving its input to the Commission before preparing the REACH amendments / Commission and Secretariat / asap
AP 2 – Update on relevant developments by Commission		
2.a) Update from CARACAL and other enforcement related issues	The Forum is awaiting the Commission decision regarding the system to be used under Article 23 of AMS. It is essential for REACH inspectors to know how AMS impacts REACH enforcement and clarifications from the Commission are awaited by the Forum (e.g. interpret “serious risk”). The MS authorities will have the opportunity to give input for the revision of Annex II of the REACH	Inform the Secretariat on the Commission decision regarding the system to be used under Article 23 of AMS / Commission / asap Submit updated Commission paper on impact of AMS on REACH enforcement / Commission / 12 October Give the possibility that the Forum comments on enforceability in future

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	Regulation. However, within the current timeline, the Forum will not have time to formally comment and the members are advised to liaise with the MSCA.	<p>revisions of the REACH Regulation / Commission / -</p> <p>Submit further comments to the Secretariat regarding the defence exemption under REACH / Forum members / -</p> <p>Confirm who can request the full registration number in SDS / Commission / asap</p> <p>Answer specific questions on the MS report to be sent to the Commission (Article 117 (1))/ Commission / by Forum-6</p>
2.b) Update on penalties legislation notified to the Commission and the Commission study	<p>The preparation of the penalty legislation within the MS that didn't notify it to the Commission is in advanced stage.</p> <p>For better harmonisation of the REACH enforcement, it is important that the Forum is aware of the findings within the Commission study on the national penalty legislation.</p>	<p>Submit input to the Commission contractor studying the national penalty legislation, if regarded necessary / Forum members / 9 October</p> <p>Presentation of the report of the Commission study on national penalties / Contractor / Forum-6.</p>
AP 3 - Practical issues for enforcement Discussions raised by the Forum members		
<i>Enforcement of Article 5</i>		
3. 1) "No data, no market" principle		
3. 2) Stocks of chemicals, when the cease of manufacture or import was notified to ECHA	-	
<i>Only Representatives (OR)</i>		

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
3. 3) Information flow and responsibility for preparing the SDS	The Forum agreed to recommend to the Commission to amend the Annex II of the REACH Regulation to make mandatory under point 1.3 that the responsibility for the SDS belongs, besides the registrant, also to the DUs (importers) situated in different MS.	Include the recommendation in the letter to be sent to the Commission (see Agenda Point 1.e) / Forum Chair and Secretariat / January 2010
3. 4) Location of OR expertise	-	-
3. 5) Demonstrate OR competence	The experience with other legislation in the MS might give some guidelines to inspectors on how to judge each case and such experience will be collected.	Prepare paper on the existing experience in the MS / Joop Blenkers and Tom O'Sullivan / 26 November Submit to Joop Blenkers, Tom O'Sullivan and the Secretariat materials to support the preparation of the paper / Forum members / 9 October
<i>AMS Regulation</i>		
3. 6) AMS enforcement in relation with REACH	The Forum is looking forward to the clarifications from the Commission (see Agenda Point 2.a)) and the inventory of AMS requirements relevant for the REACH enforcement, prepared by the Forum WG on minimum criteria for REACH inspection (Forum-6)	-
<i>Guidance on intermediates</i>		
3. 7) Strictly controlled conditions	The enforcement authorities do not validate guidance prepared by industry. The inspectors are advised to refer to the ECHA Guidance on intermediates. Guidance documents are not binding and in the end it is the responsibility of the industry to comply with the legislation. Forum members may want to address general questions to Cefic within the open session.	Submit to the Forum the ECHA comments on the guidance prepared by Cefic / ECHA / 2 October
<i>Restrictions</i>		
3. 8) Forum advice to the Commission	Before taking further action, the Forum will wait for the recommendations of its WG on enforceability of restrictions regarding the harmonisation of the	Submit national analytical testing methods to the Secretariat / Forum

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	analytical testing methods for certain entries in Annex XVII.	members / 2 October
AP 4 – WG Progress Reports		
4.a) Prioritisation and Forum project for 2010	<p>The members adopted the prioritisation criteria for Forum projects prepared by the WG.</p> <p>At this stage, the members agreed not to publish the document.</p>	-
4.b) REACH-EN-FORCE 1	<p>The project is on track in most participating countries.</p> <p>The Forum considers that, for future projects, more time is preferable for national coordination with regard to collection of data.</p>	-
4.c) Electronic information exchange procedure	<p>The WG is awaiting the Commission decision regarding the system to be used under Article 23 of AMS and which could be used by the REACH and CLP enforcers as well.</p>	<p>Submit to the WG Chair and the Secretariat feedback on using ICSMS. / Forum members / 9 October</p> <p>Submit to the WG Chair and the Secretariat comments on the list of data to be exchanged through the system, prepared by the WG. / Forum members / 9 October</p> <p>Submit the revised list of data to the Forum members for comments / Secretariat / 11 September</p> <p>Investigate the security requirements for the system to be used by the REACH enforcers, depending on the list of data to be exchanged, agreed by the Forum. / ECHA / after the list of data is finalised</p>
AP 5 – Adoption conclusions day 1		
AP 6 – WG Progress Reports		
6.a) Minimum criteria for REACH	-	-

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
inspections		
6.b) Enforceability of restrictions	The WG needs to discuss how to proceed with its task regarding the harmonisation of analytical testing methods (in particular, how the WG will use the analytical testing methods collected from the Forum members) and a WG meeting will be held mid October to clarify this.	Submit format for collecting the analytical testing methods / WG Chair / 18 September
AP 7 – Cooperation with customs		
7.a) WG progress report	<p>The Forum agreed that the WG should collect information on the cooperation with the national customs authorities regarding the REACH enforcement from the Forum members and agreed with the questionnaire proposed by the WG.</p> <p>The cooperation of the WG with DG TAXUD is very important. The Forum suggested that REACH would be discussed within the Customs Code Committee.</p>	<p>Submit questionnaire on cooperation with national customs authorities to the Forum members / Secretariat / 11 September</p> <p>Submit filled in questionnaire to the WG Chair and Secretariat / Forum members / 15 October</p> <p>Facilitate the participation of the Forum representative to the meeting of the Customs Code Committee. / Commission / asap</p>
7.b) Presentation of the work on ECICS database	<p>For customs authorities, it is important that the Forum clarifies what and how the customs could control with regard to REACH.</p> <p>The customs control might be facilitated if the REACH relevant indication would be included in the Single Administrative Document (SAD), under box 44, for which legal base would be needed.</p>	<p>Recommend to the Commission (within the letter under Agenda Point 1.e)) to amend REACH in order to make mandatory the inclusion of the REACH relevant indication in the box 44 of the SAD, following the detail recommendation of the Forum WG / Forum / January 2010.</p>
AP 8 – REACH-IT		
8.a) WG progress report	<p>The Forum agreed, in general, with the approach on further RIPE developments proposed by the WG.</p> <p>The WG should not further investigate the RIPE functionalities regarding</p>	<p>Forward WG recommendations on</p>

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	information exchange, as this is within the mandate of the WG on Electronic Information Exchange Procedure.	functionalities for exchanging information to the WG Electronic Information Exchange Procedure / WG Chair / 2 October
8.b) Update on the development of RIPE	-	Re-confirm the number of RIPE users / Forum members / 30 October
8.c) Brief update on MSCA access to REACH-IT	-	-
AP 9 – Preparation for the discussion with stakeholders		
9. Preparation for the discussion with stakeholders	-	-
AP 10 – Discussion with stakeholders		
10. a) Cefic guidance document on OR and imports	The Forum welcomed the Cefic initiative to present the Forum its guidance documents. The Forum took note of the documents and stressed that the legal text is the primary tool for inspectors.	-
10. b) Cefic guidance document on treatment and processing in free zones		-
10. c) Industry first experience with enforcement of REACH	The Forum took note about the experiences with enforcement presented by Cefic, which, in general have been positive.	-
AP 11 – CLP Regulation – Issues for enforcement		
11. CLP Regulation – Issues for enforcement	-	-
AP 12 – REACH enforcement in the MS		
12.a) Organisation of enforcement in CY	-	Confirm that the presentations can be published on the ECHA website / Forum members who presented the national REACH enforcement systems within Forum meetings / 2 October
12.b) Organisation of enforcement in IT	-	
12.c) Organisation of enforcement in PL	-	
AP 13 – Update on relevant developments by ECHA		
13.a) Update on Guidance developments	-	Submit to the Forum for comments the draft Guidance on Annex V /

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
		<p>ECHA / October</p> <p>Submit to the Forum for comments the draft Guidance on substances in articles / ECHA / end 2009</p> <p>Submit to the Forum the ECHA planning for translating Guidance / Secretariat / asap</p>
13.b) Update on the restrictions developments	The Working Procedure for developing Forum advice on the enforceability of the Annex XV proposals for restrictions needs amendments to be brought in line with the revised RAC and SEAC procedures. The Forum adopted the revised document.	-
AP 14 – Adoption conclusions day 2		
AP 15 – Follow up from the open session		
15. Discussions with stakeholders	<p>The presentations from Cefic were appreciated by the Forum and other stakeholders should be encouraged to be active as well.</p> <p>It should be further considered how the Forum fulfils its task under Article 77(4)(g) and how the industry feedback could be collected by the Forum (e.g. questionnaires, workshop etc).</p>	<p>Invite the stakeholders to present their understanding regarding good enforcement practise. / Secretariat / 18 September</p> <p>Ask the stakeholders to provide documents for discussion at Forum meetings well in advance. / Secretariat / 18 September</p> <p>Ask the stakeholders about their experiences and expectations for participating to the Forum meetings and how the cooperation with the Forum could be improved. / Secretariat / 18 September</p>

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
	<p>The Forum members should be aware of the guidance documents developed by the industrial associations as the documents will impact the approaches taken by companies.</p> <p>The Forum took note about the problem raised by Cefic regarding the abuse of information received through pre-registration, which is against the spirit of REACH.</p>	<p>Ask the stakeholders to inform the Forum on the development of guidance documents. / Secretariat / 18 September</p>
AP 16 – Update on cooperation with other networks		
16.a) Update on cooperation with SLIC CHEMEX WG (CHEMEX)	SLIC CHEMEX WG is awaiting the agreement of the Forum regarding the use of a certain information exchange system for REACH enforcers, which would impact the decision to choose a system to be used by the labour inspectors.	Clarify the costs for the MS to develop and maintain KSS / SLIC CHEMEX WG representative / 2 October
16.b) Update on cooperation with ROHs Network, CLEEN and IMPEL	-	Ask the Secretariat for copies of the posters prepared for IMPEL Conference / Forum members / -
AP 17 – Work Programme progress check		
17.a) Review of existing WG mandates	<p>The mandates of the following WGs were revised:</p> <ul style="list-style-type: none"> - Access by inspectors to data from REACH-IT - Electronic information exchange procedure - Preparation of Forum enforcement project for 2010 - Cooperation with customs authorities 	-
17.b) Overview of changes in the WP	The Forum agreed to revise the Work Programme.	Revise the Work Programme / Chair and Secretariat / by Forum-6
AP 18 – Conclusions and action points		
AP 19 – AOB		
19.a) Progress report on the preparation for train the trainers programme	Three Forum members will prepare a train the trainers programme for the beginning of 2010.	<p>Draft the training agenda and collect contributions from the Forum members and national experts / Forum members / 13 November</p> <p>Submit contributions for the training programme. / Forum</p>

Agenda point	Conclusions / decisions / minority opinions	Action requested after the meeting (by whom/by when)
		members / 2 October
19.b) Meetings in 2010	The Forum agreed on the dates for its meetings in 2010: - Forum-7: 18-20 May - Forum-8: 12-14 October	-
19.c) ECHA website	The members agreed to include on the ECHA website a section regarding the national enforcement structures.	<p>Submit template for the contributions of the Forum members/ Secretariat / 18 September</p> <p>Submit filled in template to the Secretariat/ Forum members / 30 October</p> <p>Investigate if it is possible to publish on the ECHA website a link to the Commission website referring to the consolidated version of the relevant legislation / ECHA / asap</p> <p>Present the updated website / Secretariat / Forum-6</p>
19.d) Election of the Forum Chair at Forum-6	The current Forum Chair will resign and the Forum will elect a new Forum Chair at Forum-6	<p>Submit in writing proposals to the Secretariat for candidates / Forum members / -</p> <p>Present justification for accepting the candidature / candidates / Forum-6</p>

III. List of Attendees

	MS	Members
1	RO	ALBULESCU Mihaiela
2	IT	ALLES I Mariano
3	ES	ALONSO FERNÁNDEZ Rosario
4	EL	ANGELOPOULOU Ioanna
5	PT	BARROQUEIRO Álvaro António
6	UK	BISHOP Richard
7	NL	BLENKERS Joop
8	DK	BORGLUM Birte Nielsen
9	BE	CUYPERS Paul
10	FI	EKMAN Annette
11	SI	JERAJ PEZDIR Mojca
12	SK	KOLESAR Dušan
13	DE	KOWALSKI Ulrike
14	ICE	KRISTJANS DOTTIR Sigridur
15	CY	KYPRIANIDOU LEONTIDOU Tasoula
16	PL	MIEGOC Edyta
17	MT	MIFSUD Shirley
18	IE	O'SULLIVAN Tom
19	LV	PALLO Parsla
20	EE	PROMET Natali
21	CZ	RYCHLIKOVA Eva
22	BG	SAVOV Nikolay Stanimirov

23	LT	SESKAUSKAS Viktoras
24	SE	THORAN Karin
25	FR	VIERS Stephanie
26	NO	WIKHEIM Maren
27	AT	WURM Gernot

	Invited experts	Replacing
1	DEIM Szilvia	MAJOR Jenó
2	WEBER Jill	SCHMIT Gaston

	MS	Advisers
1	IT	DI MARZIO Graziella (<i>Mariano Alessi</i>)
2	FI	FORSBACKA Anna (<i>Annette EKMAN</i>)
3	DE	FRENZEL Stefan (<i>Ulrike Kowalski</i>)
4	UK	HAWKINS Richard (<i>Richard BISHOP</i>)
5	FI	HANNINEN Marianne (<i>Annette EKMAN</i>)
6	BE	LEYNEN Michel (<i>Paul Cuypers</i>)
7	ES	LOPEZ - MANCISIDOR ROMERO Patricia (<i>Rosario ALONSO</i>)
8	NO	NYGREEN Beryl C. (<i>Maren Wikheim</i>)

9	DK	PETERSEN Pia Gitte (<i>Birte BORGLUM</i>)
10	SE	SILLREN Barbro (<i>Karin THORAN</i>)
11	ES	TARANCON ESTRADA Maria (Rosario ALONSO)
12	NL	VAN DEN BERG Jos (<i>Joop BLENKERS</i>)
13	DE	ZEITLER Reinhard (<i>Ulrike Kowalski</i>)

	DG	Commission
1	ENTR	AGUADO Miguel
2	ENV	BALCERZYK Bartłomiej
3	TAXUD	SCHEPERS Herve

	Enforcement Networks (Observers)	Representative
1	SLIC CHEMEX WG	COOK Geoffrey

	Stakeholder organisations (Observers)	Representative
1	CEFIC	ANNYS Erwin
2	EDANA	MEZAITI Hadjira
3	FEAD	LAURELLE Stephanie
4	ORGALIME	KAPANEN Mika

	ECHA	Unit
1	BARANSKI Maciej	A2 – Committees (Forum Secretariat)
2	CALVO Juan Pablo	A2 – Committees (Forum Secretariat)
3	DANCET Geert	Executive Director
4	HAUTAMAKI Anne	EO – Legal Team
5	HERDINA Andreas	A – Cooperation (Director)
6	KLEMETTI Kari	EO – Executive office
7	LIPKOVA Adriana	A2 – Committees (SEAC Secretariat)
8	MUSSET Christel	C – Registration and IT Tools (Director)
9	NOUWEN Johan	A1 – Guidance team
10	POPESCU Raluca	A2 – Committees (Forum Secretariat)
11	SCHOENING Gabriele	B3 - Classification
12	SIHVONEN Kirsi	B2 - Evaluation
13	YLA-MONONEN Leena	A2 – Committees (HoU)

IV. List of Annexes

ANNEX I. Final draft agenda

ANNEX II. Revision of existing and establishment of new Forum WGs

ANNEX II a) - Revision of the WG “Access by inspectors to data from REACH-IT”

ANNEX II b) - Revision of the WG “Electronic information exchange procedure”

ANNEX II c) – Revision of WG “Preparation of Forum enforcement project for 2010”

ANNEX II d) - Revision of the WG “Cooperation with custom authorities”

ANNEX III List of meeting documents and room documents for Forum-4

Final Draft Agenda
Fifth meeting of the Forum for Exchange of Information on
Enforcement

(Forum-5)

8-10 September 2009

European Chemicals Agency

Helsinki, Finland

8 September: starts at 9:00

10 September: ends at 15:00

DAY 1

Section 1: Closed session

Item 1 – Welcome and Introduction 9:00 – 9:30

- f) Welcome by the Chair of the Forum
- g) Address by the Executive Director of ECHA
- h) Adoption of the agenda and declarations of interests with regard to agenda points (Chair)
- i) Practicalities and brief recap of results of the written procedures between Forum-4 and Forum-5 (Secretariat)
- j) State of play with action points from Forum-4 (Secretariat)

ECHA/Forum-5/2009/2

For information

Item 2 – Update on relevant developments by Commission 9:30 – 10:30

- c) Update from CARACAL and other enforcement related issues
- d) Update on the penalties legislation notified to the Commission and the Commission study

ECHA/Forum-5/2009/3

For information

Coffee break: 10:30 – 11:00

Item 3 – Practical issues for enforcement 11:00 – 13:00

- b) Discussions raised by the Forum members

ECHA/Forum-5/2009/4

For discussion

Lunch Break: 13:00 – 14:00

Item 3 – Practical issues for enforcement (continued)	14:00-14:30
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For discussion

Item 4 – WG Progress reports	14:30 – 17:30
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- d) Prioritisation and Forum project for 2010
Progress report from the WG Chair. Adoption of the prioritisation and subject of the 2nd enforcement project

ECHA/Forum-5/2009/5

For adoption

- e) REACH-EN-FORCE 1
Progress report from the WG Chair

ECHA/Forum-5/2009/6

For information

Coffee break: 16:00 – 16:30

- f) Electronic information exchange procedure
Report from the WG Chair

ECHA/Forum-5/2009/7

For discussion

Item 5 – Adoption conclusions day 1	17:30 – 18:00
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DAY 2

Item 6 – WG Progress reports (continued)	9:00 – 10:00
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- c) Minimum criteria for REACH inspections
Progress report from the WG Chair

ECHA/Forum-5/2009/8

For discussion

- d) Enforceability of restrictions
Progress report from the WG Chair

For information

Item 7 – Cooperation with customs	10:00 – 11:00
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- c) Cooperation with customs
Progress report from the WG Chair

ECHA/Forum-5/2009/9

For discussion

- d) Presentation of the work on ECICS database (DG TAXUD)

For information

Coffee Break: 11:00 – 11:30

Item 8 – REACH-IT 11:30 – 12:30

- d) Progress report from the WG Chair
- e) Update on the development of RIPE (ECHA)
- f) Brief update on MSCA access to REACH-IT (ECHA)

ECHA/Forum-5/2009/10

For information

Item 9 – Preparation for the discussions with stakeholders 12:30 – 13:00

For discussion

Lunch Break: 13:00 – 14:00

Section 2: Open session for stakeholders

Item 10 – Discussion with stakeholders 14:00 – 15:00

Discussions based on specific topics submitted by stakeholders and Forum members (to be introduced by the submitters)

ECHA/Forum-5/2009/11

ECHA/Forum-5/2009/12

ECHA/Forum-5/2009/13

For discussion

Item 11 – CLP Regulation – issues for enforcement 15:00 – 15:30

For information and discussion

Coffee Break: 15:30 – 16:00

Item 12 – REACH enforcement in the MS 16:00 – 17:00

- d) Organisation of enforcement in Cyprus
- e) Organisation of enforcement in Italy
- f) Organisation of enforcement in Poland

For information

Item 13 – Update on relevant developments by ECHA 17:00 – 17:45

- c) Update on Guidance developments
- d) Update on the restrictions developments

ECHA/Forum-5/2009/14

For information and adoption

Short Break: 17:45 – 18:00

Section 3: Closed Session

Item 14 – Adoption conclusions day 2 18:00 – 18:30

DAY 3

Item 15 – Follow up from the open session	9:00 - 9:45
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Follow up from the discussions with stakeholder organisations

Item 16 – Update on cooperation with other networks	9:45 – 10:30
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- c) Update on the operations of SLIC CHEMEX WG (CHEMEX)
- d) Update on cooperation with ROHs Network, CLEEN and IMPEL (Secretariat)

For information / discussion

Coffee Break: 10:30 – 11:00

Item 17 – Work Programme progress check	11:00 – 12:00
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- c) Review of existing WG mandates, if necessary
- d) Overview of changes necessary in WP

Item 18 – Conclusions and action points	12:00 - 12:45
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Conclusions of the meeting and list of action points (ECHA / Chair)

For adoption

Lunch Break: 12:45 – 13:45

Item 19 – AOB	13:45 – 14:30
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- d) Progress report on the preparations for train the trainers programme
- e) Meetings in 2010

Item 20 – Closing of the meeting	14:30 – 15:00
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Closing by the Chair

Coffee: 14:30 – 15:00

Forum Working Group
“Access by inspectors to data from REACH-IT”

Composition:

Chair: Stephanie VIERS (FR)

Interim Chair: Paul Cuypers (BE)

Forum Members

- Rosario Alonso Fernandez (ES)
- Nikolay Savov (BG)

Invited Experts

- Barbro Sillren (SE)
- Paolo Izzo (IT)
- Andrea Mayer-Figge (DE)
- Eugen Anwander (AT)
- Beryl C. Nygreen (NO)
- Samuel Brunet (FR)
- Blaithin Tarpey (IE)

Objective: Support the implementation of the application allowing inspectors access to data from REACH-IT

Mandate:

- Analyse the comments of the Forum members on the ECHA proposal
- Provide input on the ECHA proposal for access in view of the Forum report on information needs
- Provide input to the SON comments on the ECHA proposal
- Provide input during the development and implementation stage of the application
- Participate in testing and implementation of the application
- Investigate if CLP Regulation implies further data requirements for inspectors in addition to those already identified
- Provide input to documents defining the security needs for RIPE and the security guidance, if necessary.

Timeline: 31 December 2010

- interim reports at Forum-4 to 9
- input on ECHA proposal before Forum-4

“Electronic information exchange procedure”

Composition:

Chair: Gernot WURM (AT)

Forum Members

- Rosario ALONSO FERNANDEZ (ES)
- Birte BORGLUM (DK)

Invited Experts

- Tone Line FOSSNES (NO)
- Maria TARANCON (ES)
- Marta OSOWNIAH (PL)
- Ludwig FINKELDEI (DE)

Commission

Peter BARICIC

Objectives:

1. Identify the data that needs to be exchanged in an electronic system for inspectors enforcing REACH and CLP Regulation and identify the scope and requirements for such a system
2. Investigate as soon as possible if the information exchange system established under Article 23 of AMS can be made suitable for the electronic exchange of information for REACH and CLP enforcement, in order to fulfill the Forum task in Article 77 (4) (f).

Mandate:

- Invite a representative of SLIC-CHEMEX as an expert to join this WG and consult any other experts that the WG may find appropriate
- Collect feedback from the Forum members on the experiences with ICSMS.
- Identify the data that needs to be exchanged in an electronic system for inspectors enforcing REACH and CLP Regulation and identify the scope and requirements for such a system.
- Recommend to the Forum criteria for deciding what system could be used by the REACH and CLP enforcers (e.g. costs functionalities, language, user friendly interface, timeline etc)
- Discuss with the builders/administrators of the information exchange system established under Article 23 of AMS if the system can be tailored for the use of exchange of REACH and CLP information.
- Define basic data sets and main data fields to be translated in national languages

Timeline: Forum-6 reporting on the progress

Forum Working Group
“Preparation of Forum enforcement project for 2010”

Composition:

Chair: Nikolay SAVOV (BG)

Forum Members

- Maren WIKHEIM (NO)

Invited Experts

- Marta OSOWNIAK (PL)
- Cecilia WESTOO (SE)
- Nikoletta MAROSVOLGYI (HU)
- Lutz Erdmann (DE)

Objective:

- Prepare the second Forum enforcement project for being performed in 2010

Mandate:

- draft criteria for prioritisation of enforcement projects
- apply the criteria for prioritisation and prepare a draft priority list for future Forum projects
- identify the subject of the second Forum enforcement project
- develop the project manual (guidance document, checklist, planning, recommendations) for the execution of the second Forum enforcement project, taking into account the project manual of the first Forum enforcement project

Timeline:

- Criteria for prioritisation: Forum-5
- Prioritisation of projects: Forum-6
- Second Forum project manual: Forum-7
- Reporting on the progress at Forum-6 and 7

Forum Working Group B7
“Cooperation with customs authorities”

Composition:

Chair: Viktoras SESKAUSKAS (LT) – Forum member

Forum Members

Mariano ALESSI (IT)
Ioanna ANGELOPOULOU (GR)
Paul CUYPERS (BE)
Tasoula KYPRIANIDOU-LEODIDOU (CY)

Invited Experts (customs authorities)

Andrea KÜRBS (DE)
Jani SARVIKIVI (FI)
Gerlin KALLAS (EE)
Ruta Birute DAUKSIENE (LT)
Henrich CERNUSKO (SK)

Commission

Bartłomiej BALCERZYK (DG ENV)

Supporting team:

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

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-7, reporting on the progress at Forum-6

Forum 5 – list of meeting documents and room documents

AP	Document	Number
1c	Draft agenda	<i>ECHA/Forum-5/2009/A/1 final draft</i>
1d	Written procedure reports	<i>ECHA/Forum-5/2009/2</i>
2a	Update from CARACAL	<i>ECHA/Forum-5/2009/3</i>
2b	Update on penalties	<i>Room Document 1 Room Document 4</i>
3a	Member Proposals for discussion	<i>ECHA/Forum-5/2009/4</i>
4a	Progress report: WG Prioritisation	<i>ECHA/Forum-5/2009/5</i>
4b	Progress report: WG REACH-EN-FORCE 1	<i>ECHA/Forum-5/2009/6</i>
4c	Progress report: WG Information exchange system	<i>ECHA/Forum-5/2009/7</i>
6a	Progress report: WG Minimum criteria for inspections	<i>ECHA/Forum-5/2009/8</i>
7a	Progress report: WG Customs	<i>ECHA/Forum-5/2009/9</i>
8a	Progress report: WG REACH-IT access	<i>ECHA/Forum-5/2009/10</i>
10	CEFIC/CONCAWE guidance on treatment and processing in free zones CEFIC guidance on import CEFIC first experiences with enforcement ECHA summary of proposals	<i>ECHA/Forum-5/2009/11 ECHA/Forum-5/2009/12 ECHA/Forum-5/2009/13 Room Document 2 Room Document 3</i>
13b	Updated Forum WP on Restrictions	<i>ECHA/Forum-5/2009/14</i>
17a	WG mandates	<i>Room Document 5</i>