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**ECHA/Forum-22/2015/16.3\_room\_doc**

**TWENTY SECOND MEETING OF THE  
FORUM FOR EXCHANGE OF INFORMATION ON ENFORCEMENT**

**FORUM-22**

**3-6 NOVEMBER 2015**

**Helsinki, Finland**

**Concerns: Summary of Forum work on improving cooperation with ASOs**

**Agenda Point: 16.3**

**Action requested: for information**

## **Improving cooperation with ASOs – summary of Forum efforts**

### **1. Background**

The Forum considers that interactions with the Accredited Stakeholder Organisation are an important part of its work. The feedback from ASOs and Forum members provided in an ECHA stakeholder satisfaction survey in 2013 indicated that there was room for improvement in the way that Forum and stakeholders cooperate. In that survey ASOs indicated that the cooperation needs to be strengthened while the Forum suggested that it needs to be more focused and result oriented. This feedback prompted the Forum to discuss with the ASOs how to improve their cooperation and actively seek for ways in which such improvement could be effected.

The purpose of this paper is to summarise these efforts and their results.

### **2. Efforts to improve cooperation with ASOs**

The first step taken was to examine in detail how cooperation happened in the past and see what lessons could be drawn from it. To this end the Forum reviewed minutes of all Forum plenary meetings to analyse all interactions between Forum and ASOs. The intention was to examine the nature of these interactions and how they could be improved to add more value for both the Forum and ASOs. This analysis resulted in a number of specific proposals of how the Forum-ASO cooperation could be improved. The proposals were consulted within the Forum in autumn 2014. In addition, during the open session at Forum-19 (November 2014), the Forum discussed the improvement of cooperation directly with the ASOs. This discussion resulted in the formulation of further improvement proposals.

The Forum discussed all the improvement proposals at Forum-21 (June 2015) and agreed which ones would be implemented. This paper summarises the majority of the identified proposals and provides the reasoning for the Forum's decisions.

### 3. Proposals for improving cooperation between Forum and ASOs

#### 3.1 Actions accepted by the Forum

Proposed action	Reasoning
1. During an open session a Forum member could make a presentation to the ASOs to elaborate on what the expectations and wishes are of the Forum with regards to ASOs input. For future reference, the main points of this could be displayed on ECHA's Enforcement webpage and circulated to ASOs.	This was already done during open session of Forum-19 and recorded in minutes.
2. Use the new " <b>Proposal Template</b> " and " <b>Eligibility Criteria</b> " for items that ASOs bring to the Forum.	The proposal template with eligibility criteria has been put to use in preparation of open session at Forum-22.
3. To provide <b>themed open sessions</b> of the Forum around issues which would be useful and relevant to the Forum. Such themes could encourage an active dialogue, suggestions for themes could come from ASOs, the Forum members and the ECHA Forum Secretariat. Themed open sessions would also benefit ASOs. Such sessions would give ASOs a clear framework to focus their presentations on and would perhaps motivate non-participating ASOs to comment on a thematic issue which they can relate to.	Current experience indicates that themes raised by ASOs for every open session tend to be diverse.  Ideas and proposals for a common related theme for the open session at Forum-24 will be collected in writing.
4. <b>ASO representatives can present via video-link</b> , if they cannot attend the meeting.	This proposal was accepted, as it should make it easier for ASOs to contribute to open sessions.
5. Issues and concerns identified by ASOs can be recorded by the Forum-S in ' <b>ASO Issues and Enforcement Concerns</b> ' for Forum reference.	This proposal was accepted. This will allow for a record of issues brought by the ASOs.
6. Invite <b>ASOs to provide information on analytical methods</b> which are actually being used by industry to test for Annex XVII restricted substances.	This proposal was accepted and the ASOs were already invited to provide input.

Proposed action	Reasoning
7. The Forum-S will verbally offer to ASOs to <b>explain the difference between HelpNet and Forum at the margins of the open session</b> , if they so wish.	At Forum-19 ASOs indicated that the distinction between the role of Forum and HelpNet is unclear. If needed this can be clarified by Forum-S in the margins of Forum-22.
8. The WG Training for Trainers is invited to consider whether it would need <b>input from ASOs in preparation of the trainings</b> .  The consideration of such cooperation with ASOs is a cyclical task in the mandate of WG Training for Trainers: for every annual training event the WG will consider whether it would benefit from ASO input and if yes, the ASOs will be invited to contribute. The ASO expert(s) would access the agenda point and related materials that he or she is contributing to, unless the WG decides otherwise.	At Forum-19 ASO representatives suggested to allow for ASO input during Forum trainings for trainers.  Industry has a lot of experience as about how obligations are complied with. ASO input to trainings may be a useful idea in order to present to NEAs the perspective of the companies or to practically explain how companies manage certain obligations. The consideration of ASO input will start in 2016.
9. The Forum and ASOs could <b>propose topics to each other to be presented</b> in the open session;  The Forum-S will invite the ASOs in advance of the open session if they are interested in presentations on specific topics from the Forum. ASOs will also be informed that the Forum is considering subjects to be invited from the ASOs. Forum members will be invited to identify presentations on topics that they would like to hear from the ASOs. Once both sets of topics have been submitted, they will be offered to the Forum and ASOs respectively to see whether there are able to provide speakers on the set of subjects. Taking up of subjects is purely voluntarily. Any subjects that are not taken can be saved for the next open session. Operation of this relationship can be reviewed after two open sessions.	At Forum-19 ASO representatives suggested that ASOs and Forum can ask each other for specific presentations.  ASOs and Forum were invited to indicate topics they wish to hear from each other.

### 3.2 Actions not accepted by the Forum

Proposed action	Reasoning
1. Use <b>break out groups during open sessions</b> to encourage discussion.	<p>This proposal was not approved by the Forum as the nature of break out groups means that feedback on enforcement matters would be provided by individual countries without coordination with the Forum.</p> <p>The Forum prefers to speak with one voice on matters relating to coordination of enforcement (unless country-specific experiences are sought). Therefore the Forum prefers the current format of the open session where discussions are triggered by topical presentations from ASOs or Forum.</p>
2. Allow <b>ASOs as observers to less sensitive items on the agenda of the Forum plenary meetings</b> (in addition to open sessions)	<p>The Forum did not approve this proposal as it would find it impossible to reliably predict what sensitive enforcement-related discussion may come during the discussions on items that may be deemed less sensitive before the meeting.</p> <p>If Forum members wished to bring up sensitive information on enforcement (for example on national enforcement challenges or targeting plans), they may be prevented from doing so by the presence of ASOs. Thus the presence of ASO representatives on the agenda items other than the open session may actually have adverse effect on the statutory task of the Forum – exchange of information on enforcement.</p> <p>Forum values interactions with ASOs but believes that they should take place in the context of specially organised open sessions.</p>
3. Produce a <b>summary of the WG actions after every plenary meeting and publish them</b> on the ECHA's website	<p>The Forum considered that it is not useful to report to the general public on the work that is in progress. WG actions in a given reporting period (between two plenary meetings) do not necessarily result in finalised outputs. For example preparation of a project lasts for several meetings. Information WG that activities are "ongoing" is very procedural and thus of little value to ASOs or the general public.</p>

Proposed action	Reasoning
	<p>The Forum believes that the current practice where it releases information on the start of activities (e.g. subject for the next REF project) and completed outputs of its Working Groups is much more useful. The information is released either via news alerts or the outputs are published themselves (e.g. project reports).</p>
<p>4. Add <b>“feedback sessions on ASO guidance”</b> to open sessions, where the Forum can provide feedback on guidance prepared by stakeholder organisations. These would be accompanied with a disclaimer that it does not constitute endorsement.</p>	<p>The Forum abstains from endorsing or recommending a stakeholder guidance document as the only official guidance is provided by ECHA. Forum may decide to provide comments to stakeholder guidance, but this would be accompanied by an appropriate disclaimer that comments (or lack thereof) do not constitute recognition.</p> <p>The Forum considered that a special agenda item to discuss ASO guidance would not add value to the participants open session, since any feedback the Forum may have would be provided more conveniently in writing.</p>
<p>5. Invite <b>ASOs to grant NEAs access to their databases</b> (like DetNet) which contain information relevant for enforcement, if available.</p>	<p>This proposal was not accepted by the Forum because it is not aware of specific databases that it would ask for access to. Should the ASOs come forward with information on such tools, the Forum may ask for granting access, if that is appropriate.</p>
<p>6. Publicly <b>release parts of the MoC which are not sensitive or confidential</b> to help industry to comply. The Forum-S could screen the MoC and draft public versions for consideration by the Forum.</p>	<p>The Forum decided to keep the manual of conclusions confidential, as it contains information on the practices of enforcement authorities and its release would undermine the purpose of inspections.</p> <p>Sanitising the MOC to remove the information on enforcement practices would make the issues no longer useful to industry.</p>
<p>7. The Forum-S to try out preparing <b>“Plenary highlights for ASOs”</b> after Forum plenary meetings. Such “highlights” could be a collection of key results from the meeting – less than minutes but more than conclusions and action points. In principle ASOs will be able to find all the information in the minutes later, but the “highlights” simply summarise it and deliver it earlier.</p>	<p>At Forum-19 ASO representatives suggested to provide ASOs with summary highlights after each Forum plenary meeting. ECHA (via its news alerts) provides the highlights of Forum meetings just after the meeting. In addition, specialised media sometimes interview some Forum members providing some additional information. The Forum considered that since all the information from the meeting is publically available to the ASOs in</p>

Proposed action	Reasoning
	<p>the minutes, the preparation of highlights is an unnecessary use of resources that may be channelled to other Forum duties.</p>
<p>8. When collecting content for the open sessions, the Forum-S needs to see if there is enough content in order to have a <b>longer open session</b>. On that basis it may be decided to prolong the open session to 1.5 days or depending on the topics, to have two open sessions.</p>	<p>ASOs proposed to organise more open sessions or longer open sessions.</p> <p>The Forum decided that current experience indicates that every year there is just enough material to have one day open session and judging by this experience it is unlikely that there will be more content to have more open sessions. So far there were no cases where ASO proposals for discussion were rejected due to lack of time on the open session. Should this happen the Forum could revisit this issue.</p> <p>Secondly, the increasing activity of the Forum means that its meetings are busy with its statutory tasks. Devoting more time to open sessions would mean less time available for coordination of enforcement.</p>
<p>9. <b>Discuss “specific cases”</b>. ASOs will be invited to bring two specific examples of interaction with the NEAs, where these examples can be useful to the Forum – e.g. to illustrate good practice (by company or NEAs). The Forum will be invited to bring practical examples (both bad and good) of how companies complied and failed to comply with their obligations and what inspectors did.</p>	<p>At Forum-19 ASO representatives suggested to discuss specific cases during open sessions.</p> <p>While the Forum did consider such cases theoretically interesting it questioned the practical added value of such discussion for the Forum. Cases of individual industry experience with the NEA would not trigger coordinated actions by the Forum on a European level. Likewise individual examples of how companies achieved or failed to achieve compliance would likely be of small practical use for the ASOs and would not be the basis for Forum action.</p> <p>The Forum preferred to focus discussion on specific subjects or themes that can be applied generally (e.g. results of REF projects, recommendations to industry), rather than specific cases involving individual duty holders.</p>