

## **RULES OF PROCEDURE FOR THE FORUM FOR EXCHANGE OF INFORMATION ON ENFORCEMENT**

### *Article 1*

#### *Forum Responsibility*

1. In accordance with Article 76(1) (f) of Regulation No 1907/2006 (“the REACH Regulation”), the European Chemicals Agency (hereinafter referred to as ‘the Agency’) shall comprise a Forum for Exchange of Information on Enforcement (hereinafter referred to as “the Forum”).
2. The Forum shall coordinate a network of Member State authorities responsible for enforcement of the REACH Regulation and Regulation (EC) No 1272/2008 (“the CLP Regulation”).

### *Article 2*

#### *Tasks*

1. In accordance with Article 77(4) of the REACH Regulation and Article 46(3) of the CLP Regulation, the Forum shall undertake the following tasks in relation to these two Regulations:
  - (a) spreading good practice and highlighting problems at Community level;
  - (b) proposing, coordinating and evaluating harmonised enforcement projects and joint inspections;
  - (c) coordinating exchange of inspectors;
  - (d) identifying enforcement strategies, as well as best practice in enforcement;
  - (e) developing working methods and tools of use to local inspectors;
  - (f) developing an electronic information exchange procedure;
  - (g) liaising with industry, taking particular account of the specific needs of SMEs, and other stakeholders, including relevant international organisations, as necessary;

- (h) examining proposals for restrictions with a view to advising on enforceability (task not being relevant for the CLP Regulation).
2. In addition, the Forum shall agree on common issues to be covered in the report indicated in Article 127 of the REACH Regulation and may agree on common issues to be covered in the report indicated in Article 46(2) of the CLP Regulation.
  3. The Forum may agree to advise on other issues related to enforceability of the REACH Regulation and the CLP Regulation.
  4. The Forum shall establish a work programme in order to plan the execution of its tasks.

### *Article 3*

#### *Membership*

1. In accordance with Article 86(1) of the REACH Regulation, the Forum is composed of members appointed by the Member States and a maximum of five additional members co-opted by the Forum. Only the members appointed by the Member States have the right to vote.
2. Members nominated by the EEA-EFTA States that are Iceland, Liechtenstein and Norway have the same rights and obligations as other members except the right to vote.
3. Members co-opted by the Forum referred to in Article 4, shall have the same rights and obligations as other members, except the right to vote and right to have an alternate to a member.

### *Article 4*

#### *Co-opting members*

1. In accordance with Article 86(1) of the REACH Regulation, the Forum shall aim to have a broad range of relevant expertise among its members. To this end the Forum may co-opt a maximum of five additional members chosen on the basis of their specific competence.
2. Following a proposal from a member, the Forum may decide whether additional members should be co-opted and shall agree on the required specific competences and selection procedure by a two-thirds majority of all members having the right to vote.
3. Co-opted members shall be appointed for a term of three years, which may be renewed by the Forum, if it considers that the specific competence of the co-opted member continues to be necessary for the Forum.
4. If the co-opted member is not fulfilling his/her duties, following a justified proposal from the Chair, the Forum may conclude on a termination of the term of the co-opted member before his/her three year term expires. The conclusion on termination of the term of co-opted members is taken by a two-thirds majority of all members having the right to vote.
5. Additional members can be co-opted at any point in time.

## *Article 5*

### *Term of office and replacing members*

1. In accordance with Article 86(1) of the REACH Regulation, the term of office of members shall be three years starting on the date of appointment and shall be renewable.
2. A member's term of office shall end:
  - a) at the expiry of the three-year term period;
  - b) with his or her resignation submitted in writing to the European Chemicals Agency;
  - c) in case of death; or
  - d) following a communication to the Agency from the Member State concerned indicating another appointment.

The new member thus appointed shall start serving a full term of three years, starting from the date of appointment by the Member State.

3. Members referred to in Articles 3(1) and 3(2) may have an alternate. The Member State concerned may appoint an alternate to a member at any point in time and shall communicate it to the Agency. The term of office of an alternate to a member starts from the date of appointment and ends at the end of the term of the corresponding Forum member. All other provisions of these Rules of Procedure for the members are, where relevant, applicable also to the alternates to the members.
4. Where relevant, an alternate to a member shall represent and vote for the appointed member in the absence of the member when he/she is not in attendance at the meeting of the Forum. At the request of the member, the alternate to a member may respond on behalf of the member in case of written procedures, consultations launched by the Forum Secretariat (hereinafter, referred to as 'Secretariat') or any request for urgent advice from members between meetings.
5. The members may, in exceptional cases when they are prevented from participating in a meeting of the Forum, identify in advance a person who shall, without the need to have a recourse to the procedure laid down in Article 6(4), be invited by the Agency to participate in a meeting as an invited expert or as his/her alternate if such has been appointed.
6. If prevented from participating in a meeting or from sending an alternate to a member, in case one has been appointed, members of the Forum having the right to vote may do so by proxy. In addition to his/her own vote, each member having the right to vote may cast a maximum of two votes by proxy. The proxy shall be notified to the Forum at the beginning of the meeting and shall be recorded in the minutes.

## *Article 6*

### *Other participants of the meetings*

1. The meetings of the Forum and its working groups shall be open to advisers, invited experts and observers, as specified in paragraphs 2 to 8.

2. The Executive Director and his representatives and representatives of the European Commission shall be entitled to take part in the meetings of the Forum and its working groups.
3. Advisers are participants of the Forum meetings or its working groups, accompanying members to provide advice on scientific or technical matters. The members shall notify the names of their advisers to the Secretariat before the meeting which they are due to attend.
4. Invited experts are experts in technical or scientific fields, who can, upon request of a member or the Secretariat, be invited by the Agency in coordination with the Chair to participate for one or more points of the agenda in the meeting of the Forum or its working groups.
5. A maximum of 2 participants may accompany a member per meeting of the Forum or its working groups.
6. Observers are other participants of the meetings of the Forum or its working groups under paragraphs 6 to 8 who are not members, advisers or invited experts.
7. Representatives of stakeholder organisations may be admitted by the Forum as observers to the meeting of the Forum or its working groups upon request of members of the Forum or the Management Board. These stakeholder observers shall conform to the ECHA “Code of conduct for observers from stakeholder organisations at ECHA meetings”.
8. Pursuant to Articles 106 and 107 of the REACH Regulation, representatives of third countries and international organisations may take part in the meetings as observers if the Management Board has invited them, in agreement with the Forum, to participate in the work of the Agency.
9. Other observers may be admitted upon request of a member of the Forum or of the Chair.
10. The Forum shall agree by two-thirds majority of all members having the right to vote on the admission of observers referred to in paragraphs 6 and 8.
11. The Chair may decide to hold the meeting or parts thereof in a closed session.
12. Invited experts and observers referred to in paragraphs 6 to 8 shall have the same access to the documents of the meeting that they take part in as the members and participants referred to in paragraph 1, except in relation to the issues that the Chair identifies as confidential or where their participation is excluded. Advisers’ access to documents is left for the discretion of the respective member.

#### *Article 7*

##### *Election and replacing of the Chair and Vice-Chairs*

1. The Forum shall be chaired by one of the members elected in accordance with the procedure specified in this Article.
2. The Forum shall elect a Chair and two Vice-Chairs from among its members having the right to vote.
3. The term of office of the Chair and the Vice-Chairs shall be 3 years, which shall be renewable once.

4. Candidatures for the Chair and the Vice-Chairs shall be submitted in writing by any of the members to the Secretariat. When accepting, the candidates shall explain their motivation to the plenary.
5. The election shall be by secret ballot.
6. Two tellers shall be designated amongst the members to assist in the counting of the vote.
7. At each round, the candidate with the lowest number of votes shall withdraw. Rounds will run until one candidate receives two-thirds majority of favourable votes of the members having the right to vote, who are present or represented by proxy.
8. If the Chair and both the Vice-Chairs are unable to attend a meeting, the meeting shall be chaired by the longest serving member from among members appointed by the EU Member States or, in the event of equal length of service, by the oldest of these members.
9. If the office of Chair or one of the Vice-Chairs falls vacant before the end of the term of office, the successor shall be appointed at the next meeting of the Forum in accordance with the procedure described in this Article. The member then elected shall serve as Chair or Vice-Chair for a full term of office.
10. Where there is reasonable doubt in the integrity or competence of the Chair or the Vice-Chairs, the Forum may decide, with a two-thirds majority of the members present and having the right to vote, to remove him or her or them from the duties.

#### *Article 8*

##### *Responsibilities of the Chair*

The Chair is responsible for the efficient conduct of the business of the Forum and shall in particular:

- a) plan the work of the Forum together with the members and the Secretariat;
- b) cooperate with the Secretariat on preparing draft agendas and draft meeting minutes;
- c) monitor that the Rules of Procedure are respected and propose measures in case of breach;
- d) ensure that at the beginning of each meeting any potential conflict of interest is declared regarding any particular item to be discussed by the Forum;
- e) ensure that the work of the Forum is consistent with its tasks indicated in Article 77(4) of the REACH Regulation;
- f) endeavour to ensure, together with the Forum and the Secretariat, consistency of the Forum's work;

- g) co-ordinate together with the Secretariat the work of the Forum with that of other committees of the Agency as well as with other relevant Community bodies;
- h) endeavour to reach consensus in the conclusions of the Forum;
- i) execute any additional powers entrusted to the Chair by the Forum.

## *Article 9*

### *Independence*

1. Based on Article 88(2) of the REACH Regulation, members shall make a declaration of commitment to fulfill their duties and a declaration of interests which could be considered to be prejudicial to their independence. The declarations shall be made in accordance with the models contained in Annex 1 and Annex 2. These declarations shall be made annually in writing and be entered in a register held by the Agency. In addition, the declarations of interests shall be published on the Agency's website without prejudice to Article 11(1).
2. According to Article 88(3) of the REACH Regulation, members, their advisers and invited experts participating in the meeting shall declare at each meeting any interest which could be considered to be prejudicial to their independence<sup>1</sup> with respect to any point on the agenda. Any members declaring such interests shall not participate in any voting on the relevant agenda point. The Chair may decide if other measures are necessary.
3. Members, where relevant, shall declare before their participation in a written procedure organised according to Article 18 any interest which could be considered to be prejudicial to their independence with respect to the conclusion to be adopted. Any members declaring such interests shall not participate in the written procedure. The Chair may decide if other measures are necessary.
4. Following Article 86(3) of the REACH Regulation, members, their advisers and invited experts of the Forum or its working groups shall not accept from any Member States any instructions incompatible with their individual tasks or with the tasks and responsibilities of the Forum. Similarly, these persons should refrain from accepting any such instructions from any other parties.
5. Members who work as private consultants or who are employed by a consultancy company (including employees of universities or public institutes) and provide such services and who currently have contracts with chemical industry or downstream users associations, chemical companies, or other potential registrants or authorisation applicants, or other bodies which can be considered as an interest group in the context of the field dealt with by the Forum, should withdraw from current contracts and refrain from entering into any new contracts with the aforementioned legal entities.
6. Members may not be employed by a private enterprise that could have any direct interest in the matter dealt with by the Forum nor by an industry association or other body which can be considered as an interest group in the context of the field

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<sup>1</sup> "ECHA Guidance on conflicts of interest for ECHA Committees and Forum members, their advisers and invited experts" provides guidance on identifying interests that could potentially present conflicts.

dealt with by the Forum. The member shall resign from the Forum before entering into service in any such enterprise or association.

7. The Chair, or in his absence the Vice-Chair, is representing the Forum towards other parties. Individual members and invited experts participating in the work of the working groups may be mandated by the Chair to represent the Forum on specific issues and/or occasions.

#### *Article 10*

##### *Confidentiality*

1. Members, their advisers, invited experts and observers of the Forum and its working groups shall not disclose to any persons other than representatives of relevant public authorities of the Member States, the Commission and Community bodies any information acquired as a result of their participation in work in the Forum unless otherwise stipulated in Community or national law or already publicly available. They shall make a written declaration of confidentiality in accordance with the model contained in Annex 3.
2. The obligation to maintain confidentiality shall continue to apply even after participation of members, their advisers, invited experts and observers in the work or in the meetings of the Forum has ceased.

#### *Article 11*

##### *Transparency*

1. In accordance with Article 88(1) of the REACH Regulation, the membership shall be made public unless the Executive Director decides not to publish the appointment at the request of an individual member.
2. The Forum shall operate in accordance with the need for a high level of transparency, without prejudice to legitimate requests for confidentiality or the independence of members, their advisers and invited experts vis-à-vis external influence.
3. The following documents of the Forum are published on the Agency's web site, subject to respect of confidentiality requirements:
  - a) Rules of Procedure;
  - b) Final minutes of plenary meetings, pursuant to Article 15(1);
  - c) Draft agendas of plenary meetings;
  - d) The annual declaration of interests in accordance with Article 9(1);
  - e) The names of the members of the Forum together with their brief CVs.
  - f) Forum Work Programme

## *Article 12*

### *Invitation to meetings*

1. The meetings of the Forum shall be convened by invitation from the Executive Director or an authorised member of the Secretariat following a consultation with the Chair or, alternatively, at request of a majority of the members.
2. The invitation to a meeting and the provisional draft agenda shall be circulated no later than 28 calendar days before the meeting.

## *Article 13*

### *Agenda for meetings*

1. A provisional draft agenda shall be drawn up by the Secretariat in cooperation with the Chair and circulated to the Forum with the invitation to the meeting.
2. Members may request items to be included in the agenda. Such requests shall be submitted to the Secretariat within 14 calendar days of the circulation of the provisional draft agenda.
3. A final draft agenda shall be circulated ten calendar days before the meeting at the latest. The agenda shall be adopted at the beginning of each meeting.
4. If the Forum so decides, additional items may be added to the agenda at any time, and items on the agenda may be deleted or carried over to a subsequent meeting.

## *Article 14*

### *Documentation for the meetings*

Documentation for the meeting shall be made available as early as possible to allow preparation for the meeting. With due consideration of their volume, documents shall be circulated 10 calendar days before the meeting at the latest.

## *Article 15*

### *Minutes*

1. Minutes of each plenary meeting shall as a general rule include:
  - a) any specific interests declared by the participants to any points of the agenda pursuant to Article 9(2);
  - b) a summary record of the proceedings;
  - c) the conclusions reached by the Forum;
  - d) the list of attendees;
  - e) action points.
2. Taking into account Article 6(11), draft minutes shall be distributed to participants of the meeting of the Forum no later than six weeks after the meeting. Written comments shall be provided to the Secretariat within the specified deadline, which



shall be a minimum of 14 calendar days. The minutes shall be adopted at a following meeting or by written procedure.

#### *Article 16*

##### *Working groups*

1. Where appropriate, the Forum may establish ad hoc or permanent working groups. A working group shall be chaired by a member of the Forum or an alternate to a member and shall report to the Forum.
2. The mandate, composition and the objectives of a working group as well as the duration of its activity shall be determined and reviewed periodically by the Forum. The Forum conclusion establishing the mandate and objectives of a working group shall also include its composition, and shall be recorded in the minutes of the meeting.
3. Working groups are composed of volunteering members of the Forum, alternates to the members and/or invited experts on the basis of the required expertise. The working group members should then receive an invitation from the Executive Director or an authorised member of the Secretariat, following a consultation of the Chair.
4. The members of the working groups under the Forum shall work in accordance with the relevant working procedures adopted by the Forum.
5. Draft agendas, meeting dates and minutes of the working group meetings shall be made available to the Forum.
6. Working groups under the Forum shall apply these Rules of Procedure, as applicable.

#### *Article 17*

##### *Quorum and Conclusions of the Forum*

1. The quorum necessary for a meeting is achieved when at least half of all members having the right to vote are present or represented by a proxy at the meeting at the time of the agenda point in question.
2. Members having declared a conflict of interest regarding an agenda point under Article 9(2) shall not be regarded as a part of the quorum for the purposes described under paragraph 1, and shall not participate in voting on that agenda point.
3. If the quorum is not achieved, the Chair may decide to immediately launch a written procedure in accordance with Article 18.
4. When preparing its conclusion the Forum shall use its best endeavours to reach a consensus.
5. Unless these Rules of Procedure otherwise specify, if consensus cannot be reached, the conclusion of the Forum shall consist of the position of the simple majority of all members having the right to vote, including its grounds. Members not supporting the majority position shall present their minority position(s), including their grounds, which may also be recorded.

## *Article 18*

### *Written Procedure*

1. The Forum can adopt conclusions by written procedure. To this end, the Secretariat, in consultation with the Chair, shall send the members the draft documents on which their opinion is sought and indicate the response period.
2. The period shall not be shorter than 14 calendar days. In exceptional cases, or if agreed beforehand by the Forum by consensus, the period can be shortened.
3. Without prejudice to paragraph 5 any member who does not respond within the response period is considered to have given his tacit agreement to the distributed document. A document is agreed by consensus when all members having the right to vote have agreed expressly or tacitly. In the event of non-consensus, Article 17(5) shall apply.
4. If major and justified objections are submitted to the Secretariat, the Chair shall decide whether the written procedure should be suspended and the adoption of the draft conclusion postponed to the next meeting of the Forum.
5. The Secretariat shall inform the Forum of the outcome of the written procedure and forward the written procedure report to the Forum for its next meeting.

## *Article 19*

### *Reimbursement*

The Agency shall reimburse members of the Forum and, where appropriate other participants invited to attend meetings of the Forum or its working groups in accordance with the rules adopted by the Management Board on the reimbursement of travel and other expenses.

## *Article 20*

### *General provisions*

1. The conclusion to amend these Rules of Procedure shall be taken by a two thirds majority of all members having the right to vote. Amendment of the Rules of Procedure shall be adopted by the Management Board.
2. The Rules of Procedure and their amendments shall apply from the date they have been adopted by the Management Board.

ANNEX 1 Declaration of commitment form

ANNEX 2 Declaration of interests form

ANNEX 3 Declaration of confidentiality form

**ANNUAL DECLARATION OF COMMITMENT OF ECHA  
FORUM MEMBERS/ ALTERNATES TO THE FORUM  
MEMBERS**

I ....., hereby declare that I shall make all reasonable efforts to fulfil my duties as a member/an alternate to the Forum member<sup>2</sup> of the Forum for Exchange of Information on Enforcement of the European Chemicals Agency (hereinafter referred to as “the Forum”).

More particularly, I undertake to exercise the functions entrusted to me at the Forum and not to seek or accept any instructions incompatible with my individual tasks or with the tasks of the Forum from any other party.

I understand that this Declaration will be entered in a register held by the European Chemicals Agency which is accessible to the public, on request, at the Agency’s offices.

Done at \_\_\_\_\_ on \_\_\_\_/\_\_\_\_ 20\_\_

Signature: \_\_\_\_\_

Position: \_\_\_\_\_

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<sup>2</sup> Strike through the text that is not relevant

**ANNUAL DECLARATION OF INTERESTS OF ECHA  
COMMITTEES AND FORUM MEMBERS**

**Title (Ms., Mr., Dr., Prof.):** .....

**First Name:** .....

**Surname:** .....

**Position:**

- Member of the Committee for Risk Assessment
- Member of the Committee for Socio-economic Analysis
- Member of the Member State Committee
- Member of the Forum for Exchange of Information on Enforcement
- Alternate to the member of the Member State Committee
- Alternate to the member of the Forum for Exchange of Information on Enforcement

hereby declares to have the following interests

1. Work and activities in organisations relevant to the operating area of ECHA during the past 5 years<sup>3</sup>:

Name of organisation	Position/Tasks	Period

2. Financial interests in a company relevant to the operating area of ECHA during the past 5 years and exceeding 50 000 € and/or voting right of 5 % or more per company<sup>4</sup>:

Name of the company	Current/Past

3. Other interests or facts whether or not related to such organisations<sup>5</sup> which you consider should be made known to the Agency, including matters relating to the members of your household<sup>6</sup>:

.....  
 .....  
 .....

<sup>3</sup> Work and activities, whether or not remunerated, for and/or on behalf of such a company or organisation and other links with the industry and organisations of REACH relevance. See points 3.3 and 3.4 of the ECHA Guidance on conflicts of interest

<sup>4</sup> Investment funds excluded. See point 3.2 of the ECHA Guidance on conflicts of interest.

<sup>5</sup> See point 3.6 of the ECHA Guidance on conflicts of interest.

<sup>6</sup> A household member means: spouse, partner, or child living at the same address as the Committee/Forum member concerned. The names of these persons do not need to be declared.

I, ....., hereby declare on my honour that, to the best of my knowledge, the only direct or indirect interests I have in organisations relevant to the operating area of ECHA related to my position referred to above are those listed above.

I further declare that should any changes occur and should it appear that I have or acquire additional interests that should be made known to the Agency, I shall forthwith declare them and complete a new declaration of interests detailing the changes.

I understand that this Declaration **will be published on the European Chemicals Agency's website** and entered in a register held by the Agency, which is accessible to the public, on request of the Agency's offices.

Signature:.....

Date:.....

**DECLARATION OF CONFIDENTIALITY OF ECHA  
FORUM MEMBERS, ALTERNATES TO THE FORUM  
MEMBERS THEIR ADVISERS, INVITED EXPERTS AND  
OBSERVERS**

I ....., hereby declare that I shall undertake to exercise the greatest discretion with regard to all facts and information coming to my knowledge in the course of or in connection with the performance of my duties a member/adviser/invited expert/alternate to a member/observer<sup>7</sup> of the Forum for Exchange of Information on Enforcement of the European Chemicals Agency. I shall not disclose to any persons other than representatives of relevant public authorities of the Member States, the Commission or Community bodies any information acquired as a result of my work in the Forum unless otherwise stipulated in Community or national law or already publicly available. I accept without reservation that I continue to be bound by this obligation also after these duties have ceased.

Done at \_\_\_\_\_ on \_\_\_\_/\_\_\_\_ 20\_\_

Signature: \_\_\_\_\_

Position: \_\_\_\_\_

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<sup>7</sup> Strike through the text that is not relevant.