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Forum Work Programme 2011-2013

(Document submitted to the Management Board)

1. Introduction

According to Article 2(4) of the Rules of Procedure, the Forum shall establish a work programme in order to plan the execution of its tasks. At Forum-8, a working group of the Forum was mandated to draft a work programme for the period 2011-2013. A draft was presented for adoption at Forum-9 (1-3 March 2011). The ECHA Management provided comments during the meeting. After Forum-9, a revised version incorporating comments from ECHA Management as well as the Forum members was distributed to the members of the Forum for adoption via written procedure. The written procedure was concluded on 2 June 2011. More details on the adopted work programme for the period 2011-2013 are given hereafter.

2. Forum Work Programme

The Forum Work Programme 2011-2013 builds on the experience of the Forum gathered over the period 2008-2010. It is intended to plan the execution of a number of activities during the second term of the Forum which runs from December 2010 to December 2013. The work programme is a tool to inform the external world on the activities of the Forum. The work programme contains two sections: an overview and detailed activity plans.

2.1. Overview

A number of work packages and their priorities are described in the document. A prominent place has been given to the Forum Coordinated Enforcement Projects to highlight the importance of this activity. Three such coordinated enforcement projects will be finished and/or prepared in the course of 2011-2013. These projects have the highest priority as they are vital for the coordinated and harmonised enforcement of REACH and CLP throughout the EU/EEA.

The second group of work packages concerns the Enforcement of REACH and CLP with a number of activities planned for the same period. Emphasis is put on the clarification of interlinks between ECHA, Competent Authorities and Member State Enforcement Authorities, the availability of the IT tools for inspectors (RIPE and EIES), the cooperation with customs authorities and the advice on enforceability of proposals for restrictions.

The third group of activities describes the Forum's organisational and general administrative issues and mainly focuses on keeping the Forum Work Programme up-to-date and the communication strategy.

2.2. Detailed Activity Plans

The detailed activity plans further elaborate on what is covered by the different work packages and are reflected in the second part of the work programme. This part describes the justification of the different activities carried out by Forum, its relevance to Forum tasks, the main objectives, the general timeline, the activity leader when known as well as a brief activity work plan.

Attachment:

The Forum Work Programme adopted by the Forum on 2 June 2011

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Annex

Adopted by Forum on 2 June 2011

FORUM WORK PROGRAMME

2011 – 2013

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Forum Work Programme

2011-2013

INTRODUCTION

Tasks of the Forum

According to Article 76(1)(f) of Regulation (EC) No 1907/2006 (the “REACH Regulation”), the European Chemicals Agency (ECHA) shall comprise a *Forum for Exchange of Information on Enforcement* (the Forum). The Forum shall coordinate a network of Member States authorities responsible for enforcement of the REACH Regulation and Regulation (EC) No 1272/2008 (the “CLP Regulation”). Article 86 of the REACH Regulation lays down rules on the establishment of the Forum.

Article 77(4) of the REACH Regulation and Article 46 (3) of the CLP Regulation list the tasks of the Forum. The list is included in Article 2 (1) 1 of the Forum Rules of Procedures (ROP):

- 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 for use by 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 under the CLP Regulation).

In addition, the Forum shall work with the following tasks, as described in Articles 2 (2) - (4) of the ROP:

- the Forum shall agree on common issues to be covered in the report indicated in Article 127 of the REACH Regulation
- the Forum may agree to advise on other issues related to enforceability of the REACH Regulation
- the Forum shall establish a work programme in order to plan the execution of its tasks

According to Article 117 (1) of the REACH Regulation, each Member State shall every fifth year report to the Commission (COM) on the operation of the REACH Regulation, including evaluation and enforcement activities as described in Article 127. Member States have submitted their first report on the operation of the REACH Regulation by 1 June 2010. The next report is due in 2015.

According to Article 46 (2) of the CLP Regulation, Member States shall submit a report to the Agency every 5 years by 1 July on the results of official controls, and other enforcement measures taken. The first report shall be submitted by 20 January 2012

The Forum Work Programme

The aim of the Forum Work Programme is to cover the tasks as described in the REACH Regulation, the CLP Regulation and the Forum ROPs, structured into work packages suitable to be handled by working groups or otherwise to be covered by the Forum as individual tasks.

The period of time covered by this Work Programme is primarily from 1 January 2011 to 31 December 2013. The Work Programme 2011-2013 also includes specific work plans for some prioritised activities. It comprises two Parts. Part I provides an overview of the tasks covered by individual work packages. Part II consists of a series of Annexes which provide the detailed plans for each of the work packages described.

Revision of the Work Programme

The Forum Work Programme will be revised as necessary by the Forum, at least once a year at plenary meetings. Any changes adopted by the Forum plenary will be included into an updated version of the Work Programme by the Forum Secretariat.

Amendments to the Work Programme might become necessary once new tasks will be allotted to the Forum by other EU legislation.

Forum Work Programme

2011-2013

Part I: Overview

Table 1. Overview of the Work Programme 2011-2013

	Work Package	Legal basis in REACH & CLP	Basis in Forum ROP	Priority	Working group of the Forum	Activities planning					Status		
						Start	Completion	2011	2012	2013			
A	Forum Coordinated Enforcement Projects												
A1	<u>Coordinated projects</u>		Article 2(1)(b), (e), g)	Very high	WG ongoing	April 2008, Dec 2008 Mar 2011							<i>Ongoing</i>
	Reach-en-Force 1 (REF1) : Delivery of coordinated enforcement project on registration, pre-registration and SDS				WG ongoing	April 2008							<i>Ongoing</i>
	Reach-en-Force 2 (REF2) : Delivery of coordinated enforcement project on obligations of downstream users - formulators of mixtures				WG ongoing	Dec 2008							<i>Ongoing</i>
	Definition of the next coordinated enforcement project, including cooperation with customs				New WG								<i>Ongoing</i>
B	Enforcement of REACH & CLP												
B 1	<u>Strategies for REACH & CLP enforcement</u>		Art 2(1)(d)	High	WG ongoing	Oct 2010	March 2011						<i>Ongoing</i>
	<ul style="list-style-type: none"> ▪ Revised guidance on best practice : strategies for enforcement for REACH and CLP ▪ Revised document “Minimum criteria for REACH inspections ▪ Revised Document “Criteria for the prioritization of coordinated enforcement projects” 												<i>Done</i>
B 2	<u>Clarification of the interlinks between ECHA, Competent Authorities (CA) and MS enforcing authorities</u>		Art 2(1)(d)	Very High	WG ongoing	May 2008	-						<i>Ongoing</i>
	<ul style="list-style-type: none"> ▪ Forum position on interlinks, particularly communication channels and procedures 												<i>Ongoing</i>
	<ul style="list-style-type: none"> ▪ Implementation, monitoring and review of information exchange mechanism(s) 												<i>Not started</i>

	Work Package	Legal basis in REACH & CLP	Basis in Forum ROP	Priority	Working group of the Forum	Activities planning						Status		
						Start	Completion	2011	2012	2013				
<u>B 3</u>	<u>Access to information from REACH IT needed by enforcing authorities in MS</u>		Art 2(1) (a),(d),(f)	Very high	WG ongoing	Dec 2007	-							<i>Ongoing</i>
	▪ Support the implementation of the REACH Information Portal for Enforcement (RIPE) allowing inspectors access to data from REACH-IT – version 1													<i>Ongoing</i>
	▪ Support implementation of RIPE – version 2													<i>Ongoing</i>
<u>B 4</u>	<u>Develop an electronic information exchange system (EIES)</u>		Art 2(1)(f)	High	WG ongoing	Dec 2008	-							<i>Ongoing</i>
	▪ Identify general functional requirements for the EIES for REACH & CLP enforcement													<i>ongoing</i>
	▪ Provide support to implementation of the EIES													<i>Not started</i>
<u>B 5</u>	<u>Guidance document on enforcement methods and enforcement practise</u>		Art 2(1) (d), (e)	Medium		Q2 2010								<i>Not started</i>
	▪ Gathering experience from coordinated enforcement project Reach-enforce-1 & Reach-enforce-2 and other national initiatives into a document													<i>Not started</i>
<u>B 6</u>	<u>Training programme for inspectors, including exchange of inspectors and joint inspections</u>		Art 2(1) (b),(c), (e)	High		May 2010	-							<i>Ongoing</i>
	▪ Training of inspectors on CLP				WG ended									<i>Done</i>
	▪ Exchanges of inspectors				New WG									<i>Not started</i>
	▪ Training inspectors on enforcement													<i>Not started</i>

	Work Package	Legal basis in REACH & CLP	Basis in Forum ROP	Priority	Working group of the Forum	Activities planning						Status		
						Start	Completion	2011	2012	2013				
B 7	<u>Cooperations with the customs authorities</u>		Art 2(1) (g)	Very High		April 2009	-							<i>Ongoing</i>
	<ul style="list-style-type: none"> Recommendation(s) on the working method for cooperation between customs authorities and other REACH enforcers 				WG ended									<i>Done</i>
	<ul style="list-style-type: none"> Preparation and execution of coordinated enforcement project on cooperation with customs authorities 													<i>Ongoing</i>
B 8	<u>Penalties for non compliance – overview</u>			Medium (Low)		-	-							<i>Not started</i>
B 9	<u>REACH and related legislation – guidance on interactions</u>			Medium		-	-							<i>Not started</i>
	<ul style="list-style-type: none"> Publication of FAQ for inspectors on inter-relation between REACH/ CLP and related legislation 													
B 10	<u>Information exchange / cooperation with other enforcement networks in the EU</u>		Art 2(1) (g)	Medium		Dec 2008 – Apr 2009	-							<i>Ongoing</i>
B 11	<u>Dialogues with international stakeholders</u>		Art 2.(1) (g)	Medium (Low)		-	-							<i>Permanent</i>
B 12	<u>Advice on enforceability of proposals for restriction</u>		Art 2.(1) (h)	Very High	WG ongoing	Sep 2009								<i>Permanent</i>
	<ul style="list-style-type: none"> 2 Documents : Check-list and guidance for forum advice + Model of forum advice 													<i>Done</i>
	<ul style="list-style-type: none"> Prepare Forum advice on enforceability of proposals for restrictions within Annex XV & XVII dossiers 													<i>Permanent</i>
C	Forum organisational and general administrative issues													
C1	<u>The Forum Work Programme</u>		Art 2(4)	Very high		Dec 2007	May 2011							<i>Permanent</i>

	Work Package	Legal basis in REACH & CLP	Basis in Forum ROP	Priority	Working group of the Forum	Activities planning						Status
						Start	Completion	2011	2012	2013		
<u>C2</u>	<u>Communication strategy</u>		-	High								<i>Permanent</i>

Forum Coordinated Enforcement Projects

A1. Coordinated projects

Common projects contribute to achieving a harmonised approach to the enforcement of REACH and CLP. Since there is an interaction between other REACH and CLP enforcement activities and coordinated enforcement projects, close contact between them will be necessary. Considering the long planning periods for coordinated projects, the preparation should start as soon as possible to initiate new projects in 2011.

Proposals for common projects have already been made by Forum Members within the previous work programme. These proposals are given beneath alongside with new candidate topics:

- Pre-registration (*in progress*)
- Registration obligations (*in progress*)
- Safety Data Sheets (*in progress*)
- Cooperation with customs authorities (draft proposal in progress – see work package A1)
- Use of chemicals in the different economic sectors of the industry to raise awareness, e.g. IT, wood processing, and furniture making
- Restrictions of PAHs in tyres (*in progress*)
- Notification under CLP
- Classification and labelling
- Information relevant in the event of emergency health response and inspectors access to information (CLP, art. 45)
- Restrictions
- Substances in articles

The Forum will discuss and prioritise the list of proposals, taking into account its own criteria for prioritisation of enforcement projects which were adopted at Forum-5 (September 2009) and updated at Forum-9 (March 2011).

Projects should include dialogue and contact between enforcement authorities and stakeholders, such as the industry, in particular SMEs and NGOs. Also contact with other enforcement networks on other chemical legislations in the EU can be useful to include in the projects considering experiences and borderline questions between different legislation (see work package B 11).

The practical experience gained from projects will be used to elaborate guidance on enforcement methods and practice foreseen under work package B5.

Priority: Very high

Status:

1st Forum enforcement project: “Pre-registration, registration and SDS for phase-in substances”

This project was executed between April - December 2009 and the results published in August 2010. The project was focused on controlling the pre-registrations for phase-in substances and the presence of the Safety Data Sheets for them. A number of Member States chose to prolong the project to gather more data and raise awareness amongst duty holders. A supplement to the project report will therefore be published at the end of 2011.

2nd Forum enforcement project: “Obligations of Downstream Users - Formulators of mixtures ”

This project is focused on controlling the obligations applicable to a specific target group – formulators of mixtures. This includes control whether the substances used are registered by their suppliers and controlling the contents of the Safety Data Sheets and information provided when SDS is not needed. The project will also look into obligations related to access of information to workers and archiving of documentation. In relation to CLP, the inspectors are going to check if the C&L notifications were submitted, where required and whether the required information was collected and maintained. The project also foresees that inspectors will rise awareness regarding the new obligations of Downstream Users with relation to the extended Safety Data Sheet.

The Working Group started work on the manual for this project in January 2010. The manual was adopted at Forum-8 (October 2010). Project implementation takes place in 2011. For the preparatory phase, Member States will disseminate the manual and prepare and train their inspectors. The operational phase of the project is planned to start in April 2011 and conclude in December of that year. The reason for such timing of the start of the project is to allow time for suppliers, who will have registered in December 2010 to deliver new safety data sheets and information to their downstream users. The final report is expected in early 2012.

► Annex A1

B. Enforcement of REACH and CLP

B 1. Strategies for REACH and CLP enforcement

As soon as the REACH Regulation entered into force the Forum recognised the necessity of establishing a common general framework which the Member State enforcement authorities could use to prepare their own national enforcement strategies.

In this context, the FORUM adopted three policy documents:

- *Strategies for Enforcement of Regulation (EC) no. 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) in March 2009; and*
- *Minimum Criteria for REACH Inspection in December 2009*
- *Criteria for the prioritization of coordinated enforcement projects*

The enactment of the CLP Regulation introduced additional responsibilities to the Member State enforcement authorities. According to Article 2 of the CLP Regulation the Forum is responsible for coordinating the enforcement of CLP in the Member States.

Priority: High

Status:

In order to fulfil the new responsibilities, at Forum-8, a Working Group was commissioned to review the two documents and to take account of the requirements of the CLP Regulation. The proposals of the Working Group were adopted at Forum-9.

The three documents will be reviewed periodically by the Forum in order to incorporate possible changes to the legislation.

► Annex B 1

B 2. Clarification of the interlinks between ECHA, Competent Authorities (CA) and MS enforcing authorities

Under Article 126 of the REACH Regulation and Article 46 of the CLP Regulation the responsibility for enforcement lies with the Member States. However, the interlinks and interactions between ECHA, Member State competent authorities (MSCA) and Member State national enforcing authorities (NEAs) need to be clarified.

This work is conducted liaising with CARACAL.

Priority: Very High

Status:

In 2009, ECHA drafted a “thought starter” on these interlinks. In 2011, this work will be taken forward by the Forum to identify and propose mechanisms for the sharing of information necessary for the effective compliance with REACH and CLP Regulations.

► Annex B 2

B 3. Access to information from REACH-IT needed by enforcing authorities in MS

Information in REACH-IT databases, e.g. on companies and substances, is needed for enforcement purposes for the REACH- and CLP-Regulation. The information limited to each EEA country will be made available to the relevant EEA country inspectorate through RIPE (REACH Information Portal for Enforcement). After a testing phase in early 2011, organisational structures will be established in EEA countries and RIPE will be launched in mid 2011. After the release of RIPE, further amendments and improvements to this first version are already envisaged and Forum will have to support the ECHA IT team in implementation of this follow up version of RIPE which will be able to retrieve and provide most of the relevant data from REACH-IT for each EEA country.

Priority: Very high

Status:

In December 2007, the Forum established a Working Group. Since then, enforcement requirements for data from REACH-IT (REACH and CLP) have been elaborated, a software specification and data model have been defined and the realisation of **REACH Information Portal for Enforcement (RIPE)** began in 2010. After finalisation of version 1 of RIPE the preparation for implementation in EEA enforcement authorities started by preparation of a organisational structure and of IT security requirements.

ECHA has as its objective to publish RIPE in mid 2011 and to provide training to national administrators and national trainers of RIPE users.

► Annex B 3

B 4. Develop an electronic information exchange system

According to Article 77 (4) (f) of the REACH REgulation, development of an electronic information exchange procedure is the task of the Forum. To reach a comparable and similar quality level of enforcement, both an alert system and a system for other exchange of information between Enforcement Authorities (EA) need to be put in place. The systems should facilitate use by EA employees both between and within MS. The detailed needs of enforcement authorities for the electronic exchange of information shall be compiled (data, functionality). The scope of the EIES shall be related to the needs of inspectors in relation to the enforcement role and tasks foreseen under REACH and CLP. The options for different solutions shall be examined by ECHA who will take the final decision on the way of implementation and the scope of EIES. Forum will assist and contribute to the implementation of the software solution for that system.

Priority: High

Status:

During 2008-2010, the Forum defined the basic requirements for an Electronic Information Exchange System (EIES) and a list of data relevant for exchange between inspectors. It also reviewed several existing IT systems and has explored potential synergies with similar IT systems (“ICSMS”) envisaged by the European Commission under Article 23 of Regulation 765/2008 (the AMS Regulation) for use by the Member State authorities. The view of the Forum on EIES has been communicated to ECHA for the further assessment of the related IT security needs for such a system. To prepare for a final decision on how to implement an EIES, a Forum Working Group initiated the preparation of a more detailed document on the describing the general functionality needs of inspectors’ from an EIES. This task will continue in 2011.

► Annex B 4

B 5. Guidance document on enforcement methods and enforcement practice

According to Article 77(4)(d) and (e) of the REACH Regulation and Article 46(3) of the CLP Regulation, the Forum shall undertake tasks to identify best practice in enforcement and to develop working methods and tools of use to local inspectors.

Status:

To reach a harmonised approach to enforcement in the MS, documents on best practice gained during coordinated enforcement projects should be published. These documents should comprise the enforcement of both the REACH and CLP Regulations, and the results and the experiences gained during the Forum’s first two harmonized enforcement projects, REACH-EN-FORCE 1 and REACH-EN-FORCE 2. Furthermore, outputs from a possible inspector exchange programme and information from documents describing best practice may be added to create comprehensive manuals on enforcement methods and enforcement practice.

The points raised under the agenda point “practical issues for enforcement” and for which it has been possible to find a conclusion are gathered in the guidance document.

During the development of these manuals, language barriers will need to be considered as well as funding. Given their nature, as documents written for inspectors (and possibly registrants alike), the manuals should be short and thus easy to use.

Creating the documents will start as soon as both harmonized enforcement projects are completed and the results are published during the second half of 2012.

Priority: Medium

B 6. Training programme for inspectors, including exchange of inspectors and joint inspections

To reach a comparable and of similar quality level of enforcement of REACH and CLP in the MS, there is a need for equally well-qualified and competent inspectors. There are differing levels of enforcement capabilities throughout the Member States and the numbers of national authorities that enforce different aspects of the REACH and CLP Regulations. To enhance these capabilities and to encourage a common approach to implementing the legal requirements coordinated programmes are necessary. These may lead to the adoption of comparable criteria in enforcement policy and practice. To facilitate this, a programme, that includes training and coordinating exchange of inspectors and joint inspections, will be developed in 2012.

Priority: High

Status:

Training

Training is required for executing effective enforcement activities. Sharing good training material between MS is one means to increase a harmonised approach to enforcement and avoid unnecessary duplication of work; it may also be useful to develop an overview of the training materials in the MS and any other material prepared by other enforcement networks. New techniques, e.g. *webinars*, should be utilised to conduct efficient learning, where appropriate.

Within this work package training materials and programmes are prepared by the Forum, who then requests financial support from ECHA in the organisation of trainings for trainers. ECHA considers these requests on a case by case and decides, subject to availability of resources, if the training events are to be financed. This practice will continue during the present work programme.

At Forum 4 (April 2009) the Forum has undertaken to prepare materials and syllabus for inspectors in REACH. The training for enforcement trainers was organised in February 2010 with financial support from ECHA. At Forum-7 (May 2010), a Work Group was established to develop a similar training for CLP. The training was organised in January 2011 with financial support from ECHA.

Training-related exchanges can also be arranged, as described below, depending on the willingness of MS that are more advanced in their policy, organisation and practice of inspection/ enforcement for REACH and CLP, to receive inspectors from another MS.

Exchange of inspectors and joint inspections

At Forum-8 (October 2010), the Forum initiated a survey of its members to gather ideas and experience on the topic of “coordinating exchange of inspectors”. The overriding benefits foreseen are learning from each other leading to a common approach to enforcement of REACH and CLP and to improve inspection overall. Knowledge about new working methods, best practice on enforcement, agreements on solutions to cross-boundary issues, strengthening capabilities in areas of limited expertise/ resource can all be derived from this activity.

Furthermore, Forum will consider the development of a programme of mutual joint visits involving all Forum countries as a good tool to promote a common and agreed level of harmonisation between MS enforcement authorities. The Forum's own documents "Strategies for REACH and CLP enforcement (2011 edition)" and "Minimum criteria for REACH/ CLP inspection (2011 edition)" can act as a benchmark, laying the foundations for effective policy, organisation and practice in inspection/enforcement. The ECHA will offer financing to the pilot project of inspector exchanges under this work package, but longer term financing should be provided by the European Commission or the Member States themselves.

Solutions to potential barriers to exchanges e.g. language, legal (related to the participation of inspectors in another MS enforcement activities), financial and/or logistical support will be considered. To that end, experience from other legislative areas will be useful, e.g. environmental (IMPEL), occupational safety & health (SLIC), good laboratory practice (GLP) and Market Surveillance to overcome these potential barriers.

► Annex B 6

B 7. Cooperation with the customs authorities

Cooperation of REACH and CLP enforcement authorities with the customs authorities is very important for handling import control. Practical solutions are needed for such cooperation and, ultimately, involvement of customs in the control of REACH and CLP. To establish such cooperation and find solutions, Forum shall work together with the national customs experts and consult its findings with the Directorate-General for Taxation and Customs Union of the Commission (DG TAXUD).

Priority: Very High

Status:

In May 2008, the Forum agreed that further action is needed in this area. As a first step the Forum decided to send a letter to the Commission kindly requesting that the COM encourages the national customs authorities to cooperate with REACH enforcement authorities. The Forum discussed the possibility to establish a WG for investigating the possibilities and areas for cooperation between customs authorities and REACH enforcers. The Forum agreed that a WG is necessary, but due to the limitation of resources the establishment of the WG was postponed to Forum-4, in April 2009.

The Working Group was established in April 2009, consisting of REACH and customs experts from the Member States. In the course of 2009 and 2010 the WG worked on a recommendation for practical involvement of customs in control of REACH and it has presented its proposal for adoption at Forum-9 in March 2011. The output from this Work Package should be followed up by a coordinated project (A1) and considered when developing an enforcement strategy and minimum criteria (B 1).

The Forum will prepare a coordinated enforcement project under activity A1 in the course of 2011 and 2012, which will include cooperation with customs authorities according to the proposal prepared by the WG under activity B7. The Forum will use this practical experience to review its proposal on cooperation with customs. In the long term it is foreseen that the reviewed proposal will be consulted with DG TAXUD.

The involvement of customs authorities in the enforcement of the CLP Regulation would also enable improvement in the control of imported substances. Control of CLP Regulation by customs will be considered when undertaking any coordinated projects (A1) related to cooperation with customs following the outputs of Work Package B7.

► Annex B 7

B 8. Penalties for non-compliance – overview

Under Article 126 of the REACH Regulation and Article 47 of the CLP Regulation, each MS shall lay down provisions on penalties applicable for the infringement of the REACH and CLP Regulations. Since this is national issue, the exchange of information on penalties in the MS should aim at categorizing these penalties without striving towards harmonization. Instead, a common understanding about the relevance of certain cases of non-compliance should be promoted. The penalties provided must be effective, proportionate and dissuasive, both for REACH and CLP Regulations.

The process of introducing sanctions for non-compliance of REACH and CLP has already been done in the MS because they had to notify to the Commission their penalties by 1 December 2008 for REACH and by 20 July 2010 for CLP.

Priority: Medium

Status:

There is an existing report on penalties under REACH called “Report on Penalties applicable for infringement of the provisions of the REACH Regulation in the Member States” written by Milieu consultants for COM. In December 2009 the European Commission had presented the Forum with preliminary results of its study of Member State legislation on penalties. The Forum has commented on the findings of the Commission in early 2010. The status-of-play and the practical results of the existing report should be analyzed before further reports are created.

B 9. REACH & CLP and related legislation – guidance on the interaction

Guidance is needed on how the REACH and CLP enforcement is influenced by legislation in other areas, such as waste legislation, occupational safety & health (OSH) legislation and environmental legislation. The examples are the Council Directive 98/24/EC on Chemical Agents Directive (CAD), and the new approach product directives on toys, AMS Regulation, medical devices etc. Like REACH, CAD contains duties relevant to how substances are used by downstream users, though there are some important differences that may lead to areas of tension but also to synergies between the two legislative regimes. Similar tensions might occur with other legislation, e.g. the cosmetics directive. Many of these regulations have implemented a risk approach/assessment in their obligations on duty holders which could lead to differences in interpretation and follow up.

Some analysis of such legislative interactions might already be available. It will be useful for enforcing authorities to have a summary of what is already concluded, and the Forum could

produce an overview and guidance to assist both enforcing authorities and duty holders to achieve compliance. This work package has a close relation with work package B10. The result of the work concerning legislative points will be shared with CARACAL.

Priority: Medium

Status:

Potential areas for examination within the lifetime of this Work Programme are given at Annex B9.

► Annex B 9

B 10. Information exchange/cooperation with other EU enforcement networks

Contact with other networks on enforcement of other chemical legislation in the EU can be useful to exchange experiences and to discuss borderline questions between different legislation. Duplication of work could be avoided by considering enforcement experiences from former enforcement cooperation and by using synergies. Specific experiences could be used in connection with the work package on coordinated projects (A 1).

Enforcement networks mentioned are

- The CLEEN network (Chemical Legislation European Enforcement Network) – deals with other legislation on chemicals, biocides, POPs, detergents, fireworks etc
- The SLIC – CHEMEX working group – the SLIC (Senior Labour Inspectors Committee) deals with labour inspection in the field of health and safety at work. CHEMEX Working Group has been established by SLIC to investigate the impact of REACH on labour inspectors
- The RoHS enforcement network deals with enforcement of the RoHS-directive (Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment)
- The IMPEL (European Union Network for the **Implementation and Enforcement of Environmental Law**) deals with environmental legislation
- PEMSAC (Platform of European Market Surveillance Authorities for Cosmetics), dealing with cosmetic products
- Enforcement “network” under **General Product Safety Directive** (PROSAFE), RAPEX
- Accreditation and Market Surveillance Regulation (765/2008/EC) (RAPEX)
- Toy ADCO expert network - included enforcement activities

Consideration is given to invite members of other enforcement networks to participate in Forum working groups, when appropriate.

Priority: Medium

Status:

In May 2008, the Forum agreed on the need for cooperation and exchange of information with the other enforcement networks e.g. SLIC, CLEEN, IMPEL and network for enforcement of ROHS Directive. The SLIC, which has its competence in the field of occupational health and safety, is invited to the Forum plenary meetings on a regular basis. The participation of other enforcement networks to the Forum work is welcome and they are invited to participate on a case by case basis.

In the Forum work activities regarding enforcement of REACH & CLP, it is important to keep good contact with other enforcement networks in order to be updated on current practice and exchange information on on-going enforcement activities. In addition the experience from enforcement activities in other networks may be a useful input to elaborate an FAQ with respect to legislative enforcement interactions/implications (see activity B10). The Forum proposes to keep up/maintain a yearly information round with relevant networks.

B 11. Dialogue with international stakeholders

The Forum should develop a dialogue with stakeholders at international level, such as ILO, UNEP, Rotterdam (PIC), Basel (Transboundary Waste) and Stockholm (POPs) Convention Secretariats, and the Secretariat of IFCS and SAICM ¹.

Priority: Medium

Status:

The Forum has not yet undertaken activities in this work package. The Forum resources have focused mainly on work packages of a high(er) priority. However, the Forum Secretariat provides information on enforcement and Forum issues for ECHA liaisons with international stakeholders and third countries.

B 12. Advice on enforceability of proposals for restrictions

According to Article 77 (4) (h) of the REACH Regulation the task of the Forum is to examine proposals for restrictions with a view to advising on enforceability. Starting on 1 June 2009, Annex XV dossiers with proposals for restriction could be submitted to ECHA and the Forum should be prepared to examine them.

Priority: Very high

Status:

A working group for providing advice on enforceability of restrictions was established at Forum-4 in April 2009 to facilitate the elaboration of the Forum advice on enforceability of restrictions. The WG was also mandated to consider if it would like to recommend to the European Commission inclusion of harmonised (obligatory) testing methods for entries within Annex XVII. During 2009 the WG collected and inventorised analytical methods used by the Member States when enforcing Annex XVII. The Commission supported the WG by providing an inventory of the testing methods for entries in Annex XVII that are used at international level. This work continued in early 2010. In 2010 the WG drafted the Forum advice on enforceability of restriction proposals submitted to the Agency. The WG participates in the restriction process, together with RAC and SEAC, by providing advice on the enforceability of the restriction proposals. A working procedure has been adopted by the Forum.

► Annex B 12

¹ Strategic Approach for Chemicals management

C. Forum organisational and general administrative issues

C1. The Forum Work Programme

According to Article 2(4) of the ROP, the Forum shall establish a Work Programme in order to plan the execution of its tasks. This Work Programme shall cover a time period of three years, i.e. the second Work Programme shall cover the years 2011 - 2013. The Work Programme shall be revised by the Forum plenary as necessary, at least once a year.

Priority: Very high

Status:

The Forum has delegated the task to develop the draft Work Programme for 2011-13 at its eighth meeting (Forum-8) on 12-14 October 2010 to a Working Group (WG) together with the tasks to update a set of other strategic documents of the Forum (e.g. enforcement strategies, minimum criteria for enforcement). A basic focus of this work is on the full inclusion of obligations according to the CLP Regulation as has been proposed by the WG on strategies for CLP enforcement.

► Annex C 1

C2. Communication strategy

The Forum recognises the importance of clear and consistent communication to effectively undertake its tasks and to communicate its work to its stakeholders, foremost inspectors, ECHA and duty holders; for instance, concerning harmonised European enforcement projects.

To this end, the Forum will strive to embed effective communication into each of its work packages so that the purpose and outcome of its work are broadcast and known to those affected.

The Forum will continue to liaise with industry, taking particular account of the needs of SMEs, through its annual Forum Stakeholder Enforcement Workshops and cooperate with ECHA to identify the most suitable communication approaches to support its work.

No specific work package is allocated to this activity.

Priority: High

Forum Work Programme

2011-2013

Part II: Detailed Activity Plans Annex A1

Activity A1 – Coordinated projects

Justification:

Common projects contribute to reach the goal of more comparable enforcement of REACH and CLP. The WG needs to prepare and present the documents necessary for the execution of the projects in accordance with the objectives below.

Relevance to Forum tasks:

Activity of general importance to the Forum: proposing, coordinating and evaluating harmonised enforcement projects (ROP article 2.1 b, g).

Activity A1.1. - 1st Forum enforcement project on registration, pre-registration and SDS

Objectives:

Coordinate and manage the operational and reporting phase of an extension to the coordinated REACH enforcement project on registration, pre-registration and SDS

General Timeline: Q4 2010 – Q4 2011

Activity leader: Joop Blenkers/Mihaela Albulescu

Brief activity work plan

No	Provisional timing	Description
1	Q4 2010	Adoption of the main project report
2	Q1 2011	Report progress on extension to project at Forum-9
3	Q2 2011	Analyse project results and draft facts report
4	Q3 2011	Publish facts report and press release on project extension
5	Q4 2011	Final report to Forum-10 (October 2011)

Output(s)

1. Guidance / recommendations for REACH enforcement authorities

Activity A1.2. – Obligations of downstream users – formulators of mixtures

1.2.1 Preparatory phase

The Forum has prepared a list of enforcement project subjects. In order to ensure an objective method for selecting the subject of a second and subsequent enforcement projects, the Forum will develop a system for prioritisation of enforcement project proposals and apply this method to the existing list.

Objectives:

1. draft criteria for prioritisation of Forum enforcement projects
2. identify the subject of the second Forum enforcement project
3. Develop the project manual (guidance document, checklist, planning, recommendations)

General Timeline: Q1 2011 – Q2 2012

Activity leader: Nikolay Savov (BG)

Brief activity work plan

No	Provisional timing	Description
	Preparatory phase	
1	January 2011	Provide project Manual and training to national coordinators
2	Jan–March 2011	Preparations at national level
	Operational phase	
3	May – Dec 2011	Project implementation at national level
	Reporting phase	
4	January 2012	National authorities report findings to Forum Working Group
5	Feb-June 2012	Analysis and preparation of project report by Working Group
6	Q2 2011	Project report to Forum

Output(s)

1. Project manual for the second Forum project
2. Project report on preparedness of downstream users in respect of REACH and CLP obligations

Annex B1

B 1 - Strategies for REACH and CLP enforcement

Justification:

Since REACH and CLP together manage a set of many different requirements in the area of environmental and consumer protection, it is necessary to agree on the various effective policies that MS should apply for achieving the best possible results.

Relevance to Forum tasks:

Activity of general importance to the harmonised approach to enforcement of REACH and CLP in the European Economic Area.

Objective: To review and update key Forum guidance

General Timeline: Q4 2010 – Q1 2011

Activity leader: Tasoula Kyprianidou-Leontidou (CY)

Brief activity work plan

No	Provisional timing	Description
1	14 October 2010	Establish Working Group (WG) at Forum-8
2	Nov – Dec 2010	Develop and agree on the format of the WP and activity proposal within the WG.
3	Dec 2010 – Jan 2011	Consult Forum members and Commission on amendments
4	Jan – Feb 2011	Collect and review comments
5	1-3 March 2011	Discuss draft documents at Forum-9
6	March 2011	Prepare and publish revised publications

Output

Revised publications published on Forum web pages of ECHA web site.

Annex B 2

Activity B2 – Clarification of the interlinks between ECHA, CA and MS enforcing authorities

Justification:

The ECHA will be the authority receiving submissions under many of the obligations specified under REACH and CLP Regulations. Clarification of the scope of responsibilities of ECHA in that respect will also be necessary for defining the scope of responsibilities of enforcers at the national level.

Relevance to Forum tasks:

Activity of general importance to the enforcement of REACH and CLP as it will help to define also the scope of responsibilities of national enforcement authorities.

Objective:

To clarify the interlinks between ECHA's MSCAs and national enforcement authorities in different REACH and CLP processes.

General Timeline: Q1 2011 – Q4 2011

Activity leader: Mihaela Albulescu (RO)

Brief activity work plan

No	Provisional timing	Description
1	October 2010	Establishment of Working Group at Forum-8.
2	January 2011	Drafting of detailed Activity Plan
3	March 2011	Progress report to Forum-9
4	April – Sept 2011	Elaboration of selected, priority REACH / CLP processes in consultation with ECHA and competent authorities (including pilot project(s) as necessary)
5	October 2011	Recommendations to Forum-9.
6	November 2011	Publication of position paper and implementation of recommendations (as necessary)

Output

A “position paper” clarifying the interlinks between ECHA, competent authorities and the enforcement authorities of the Member States in the compliance .

Annex B 3

Activity B 3 – Identifying the needs of enforcers from REACH-IT

Justification:

Inspectors will need specific information on companies and substances for enforcement of the REACH– and CLP-Regulation. Most of the information is (only) available in REACH-IT databases of ECHA. Enforcement authorities are currently treated as external parties for the purposes of access to REACH-IT and have to cooperate closely with MSCA in order to access relevant data.. However, for reasons of efficiency, direct access for inspectors to data in REACH-IT is necessary. In order to ensure that RIPE covers the needs of EEA country enforcement authorities, the Forum has to co-operate with ECHA and SON during the development, the implementation and the updates of RIPE.

Relevance to Forum tasks:

Relevant to tasks under:

- Art 2(1)(f) for ROPs on developing electronic exchange procedure for inspectors.
- Art 2(1)(a) on highlighting problems on community level

Objectives:

1. Identify future information needed by inspectors for effective enforcement, which could be found in REACH IT with the view of communicating the future information needs to ECHA for consideration of possible access solutions
2. Support the implementation of the IT application allowing inspectors access to data from REACH-IT by analysing the ECHA proposal for access and following the development and implementation of the application.
3. Support the development of the second version of RIPE by analysing the possibility of inclusion or modification of initial RIPE functionalities and its further implementation.
4. Provide assistance in the development of manuals/guidances or trainings and in organisational/operational issues (security, administration, auditing).

General Timeline: Q1 2008 – Q1 2013

Activity leader: Pablo Sánchez Peña (ES)

Brief activity work plan

No	Provisional timing	Description
1	Q1 / 2010 – Q2 / 2011	Provide support to ECHA during implementation of the RIPE project by commenting on requirements and participating in testing and training as well as in operational support
2	Q3 / 2011- Q2 / 2013	Provide input on the final application after real use. Give support to ECHA during specification and implementation of the next version of RIPE (new/amended/advance functionalities of RIPE) and in the development of manuals/guidances.

The WG has the mandate until Forum-10 (Q3/2011) when RIPE version 1 will be delivered to the users. For realisation of a follow-up version of RIPE the duration of the mandate for the WG shall be extended until Forum 13 (Q2/2013).

Output(s)

Operational RIPE in EEA countries in mid 2011 in co-operation with ECHA
Specification for RIPE version 2 in co-operation with ECHA

Annex B 4

Activity B 4 – Electronic Information Exchange System

Justification:

According to Article 77 (4) (f), development of an electronic information exchange procedure is the task of the Forum.

Relevance to Forum tasks:

Relevant to tasks under:

- Art 2(1)(f) of ROPs on developing electronic exchange procedure for inspectors.
- Art 2(1)(a) of ROPs on highlighting problems on community level

Objectives:

1. Identify general functional requirements for the system of electronic exchange of information for REACH and CLP enforcement, in order to fulfil the Forum task in Article 77 (4) (f).;
2. Review the proposal for a specific EIES solution proposed by ECHA and contribute to its implementation (e.g. by contributing to detailed functional requirements specification, testing, operational issues).

General Timeline: Q1 2011 – Q2 2011

Activity leader: Birte Børglum (DK)

Brief activity work plan

No	Provisional timing	Description
1	12-14 Oct 2010	Reestablish Working Group and objectives at Forum-8
2	27 January 2011	Agreeing on the key functionalities of EIES at the WG meeting
3	1-3 March 2011	Adoption of the paper “General functional requirements for EIES” at Forum-9
4	Q2/Q3 2011	Provide answers to questions on the general functional requirements if needed during the decision making process on best way of implementing EIES
5	Q4 2011 – 2013	Support implementation of EIES when it is undertaken, in particular by participating in collection and consultation of business requirements

Output(s)

1. Q1 2011: A document on a general description of functionalities desired from the electronic information exchange system for REACH and CLP enforcement by Forum-9. If appropriate the paper may define also non-functional requirements that WG may deem appropriate.

► **Annex B 6**

B 6. Training programme for inspectors, including exchange of inspectors and joint inspections

Training programme B 6.1: Train the CLP enforcement trainers

Justification:

The requirement in the CLP Regulation for duty holders to notify ECHA by the 3rd of January 2011 provides a key point of reference from which national enforcement authorities will determine compliance with the CLP Regulation.

Relevance to Forum tasks:

Relevant to tasks under:

- Art. 2(1)(d) of ROPs on identifying enforcement strategies, as well as best practice in enforcement
- Art. 2(1)(d) of ROPs on developing working methods and tools for use by local inspectors;

Objectives:

1. To provide national authorities with a common framework for training on the requirements of some of the key provisions of the CLP Regulation.

General Timeline: Q1 2011

Activity leader: Karen Thoran (SE)

Brief activity work plan

No	Provisional timing	Description
1	May 2010	Establishment of Working Group to develop training syllabus (Forum-7)
2	12-14 Oct 2010	Report on progress at Forum-8
3	25 January 2011	Delivery of training event to national authority trainers
4	October 2011	Report on national (training) activities (Forum-10)

Annex B 7

Activity B 7 – Cooperation with the customs authorities

Justification:

REACH applies to imported substances and cooperation between the REACH enforcement authorities and the customs authorities is very important for the enforcement of the REACH provisions for imported substances.

Relevance to Forum tasks:

Relevant to tasks under:

- Art 2(1)(a) of ROPs on highlighting problems on community level
- Art. 2(1)(d) of ROPs on identifying enforcement strategies, as well as best practice in enforcement

Objectives:

2. Investigate the needs and areas for cooperation between customs authorities and other REACH enforcement authorities

General Timeline: Q1 2011

Activity leader: Viktoras Seskauskas (LT)

Brief activity work plan

No	Provisional timing	Description
1	12-14 Oct 2010	Report on progress at Forum-8
2	Oct 2010 – March 2011	Finalise the recommendation
3	1-3 March 2011	Deliver the final output at Forum-9

Output(s)

1. Recommendation regarding the procedure for involving the national customs authorities in control of compliance with the REACH Regulation.

Annex B 9

Annex B 9 - REACH & CLP and related legislation – guidance on the interaction

Justification:

The Forum tasks (art.77 (4)) involve spreading good enforcement practice and highlighting problems at Community level with the aim of harmonised enforcement strategy. An understanding of the borderlines with respect to the enforcement (assessment & judgement) of related European legislation will contribute to ensuring compliant interaction with REACH & CLP also in related legislations.

Relevance to Forum tasks:

Objectives:

- Guidance on how REACH enforcement could be influenced by legislation which covers related areas;
 - Analysis / overview of legislation where the enforcement activities will have interactions and borderlines (*with focus on the chemical area*);
 - Analysis of relevant actors & duty holders (manufacturer, producer, downstream user, importer) which are imposed responsibilities;
 - Identify on which areas enforcement activities may cause interactions and tensions, as well as synergistic effects:
 - o classifying and labelling, risk assessments, exposure scenarios, occupational health & safety, environmental issues & processing permits/licences, waste identification & treatment, product/article legislations, use related directives and international conventions
- *brief overview of relevant borderline legislation*
- *
- | | |
|----------------------------|------------------------------|
| • CLP (1272/2008/EC) | Toys Directive (378/88/EC) & |
| • CAD (98/24/EC) | (AMS (goods) (765/2008/EC) |
| • Detergents (648/2004/EC) | Waste (08/98/EC) |
| • POPs (850/2004/EC) | IPPC (2006/194/EC) |
| • Biocides (98/8/EC) | IED (2010/75/EC) |
| • Pesticides (91/414/EC) | ROHS (2002/95/EC) |
| • PIC (689/2008/EC)) | |
- Prepare a simple flowsheet with related legislative interactions in the context of REACH

General timeline: Q3 2011 – Q2 2012

Activity leader: *to be allocated*

Activity Plan: *to be developed (but covering the tasks beneath):*

- Conduct survey of the related legislative authorities on their own FAQs where borderline issues are presented and discussed, also on enforcement context to related legislation;
- Questionnaire to the Forum MS (with focus on selected topics);
- Contact other enforcement networks (see work package B11) to get information (practise, experience) and relevant guidance manuals for enforcement

Output:

FAQ (e.g integrated in a future enforcement guidance or in a REACH/CLP FAQ)

Annex B 12

Activity B 12 – Advice on enforceability of proposals for restrictions

Justification:

According to Article 77 (4) (h) the task of the Forum is to examine proposals for restrictions with a view to advising on enforceability.

Relevance to Forum tasks:

Relevant to task under

- Art 2(1)(h) on examining proposals for restrictions with a view to advising on their enforceability.

Objectives:

1. Prepare the Forum advice on enforceability of proposals for restrictions
2. Investigate and recommend if and which restriction entries would require the establishment of the harmonised analytical method

General Timeline: WG, reporting to the Forum at each plenary meeting

Activity leader: Paul Cuypers (BE)

Brief activity work plan

No	Provisional timing	Description
1	March 2011	Progress report at Forum-9
2	2011 onwards	Future activities on restrictions to be agreed by Forum at Forum-9 based on recommendations from Working Group

Output(s)

1. Draft Forum advice on enforceability of the proposals for restrictions

Annex C 1

Activity C 1 – Drafting the Forum Work Programme

Justification:

Due to the multitude of issues the Forum has to work with, it will need a comprehensive Work Programme (WP) specifying and prioritising its activities, which will act as a clear reference on the ongoing work and plans of the Forum. It is therefore necessary to develop each third year the WP for a time period of three years, laying down options and prioritise for tasks of the Forum as well as the means on how to realise the task. The WP will be adopted by the Forum. The WP shall be prepared by a Working Group of the Forum.

Relevance to Forum tasks:

Activity of general importance to the Forum, related to the practicality of its operation.
Relevant to ROP article 4

Objectives:

1. To develop the Forum WP each three years.
2. To collect, prioritise and include in the WP the proposals for Forum activities from the Forum Members, the Working Group Leaders and from the other Working Group Members dealing with the preparation of the WP.

General Timeline: Q4 2010 – Q1 2011

Activity leader: Tasoula Kyprianidou-Leontidou (CY)

Brief activity work plan

No	Provisional timing	Description
1	14 October 2010	Establish Working Group (WG) at Forum-8
2	Nov – Dec 2010	Develop and agree on the format of the WP and activity proposal within the WG.
3	Dec 2010 – Jan 2011	Request proposals from WG members and other Forum Working Groups
4	Jan – Feb 2011	Collect and prioritise the proposals and draft the WP 2011-2013, revise the three strategic Forum documents
5	1-3 March 2011	Discuss the draft WP and the three revised strategic documents at Forum-9
6	March 2011	Prepare and publish final Work Programme and final versions of the three strategic documents

Output(s)

1. Draft Forum Work Programme 2011-2013

Three revised strategic documents of Forum for RE