

Agenda point 8.2

Forum's finalised projects during 2018

Forum-31

Open session

14 November 2018

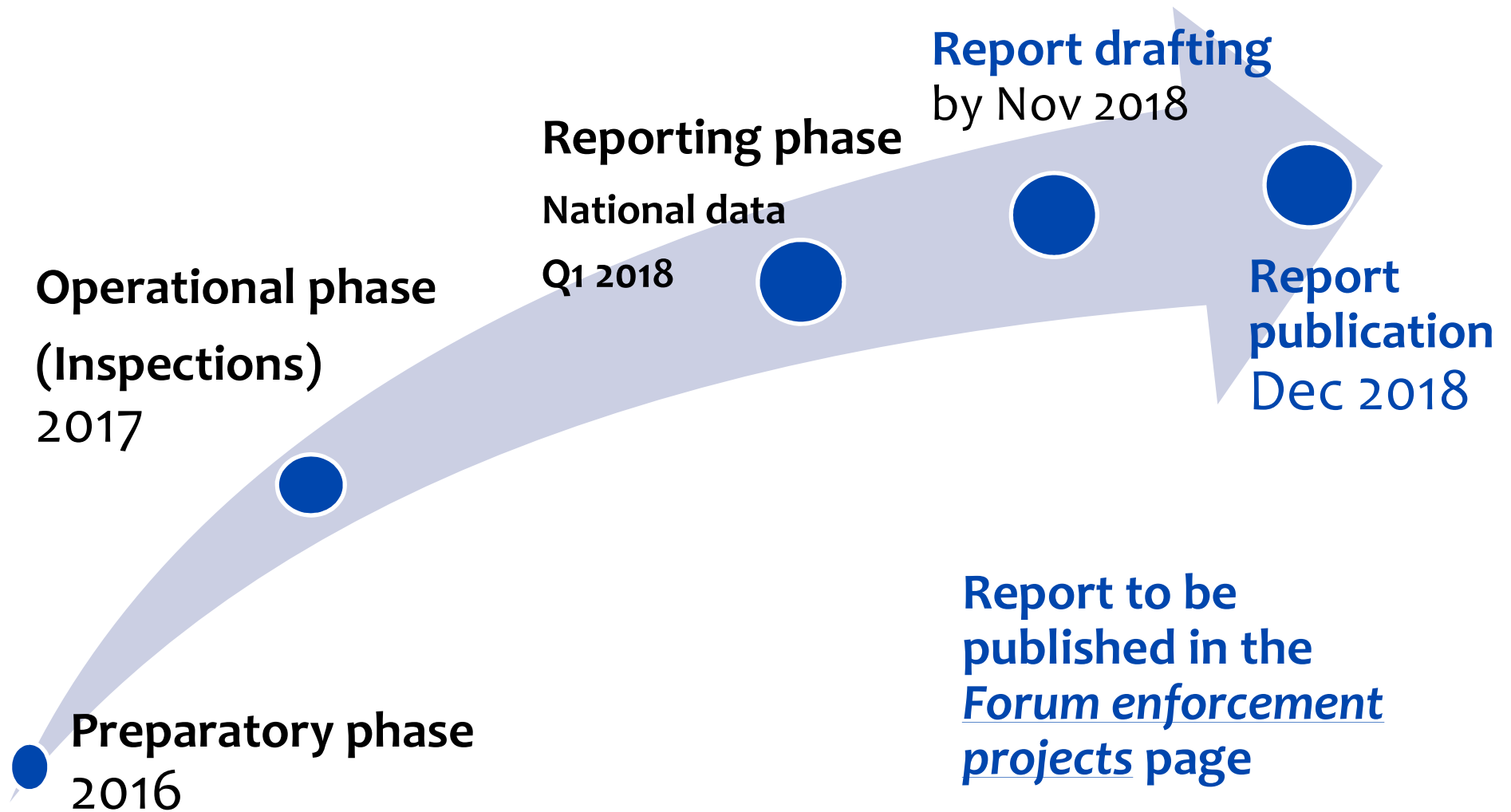
Forum for Exchange of Information on Enforcement

REACH-EN-FORCE (REF) - 5

**on Extended Safety Data
Sheets (ext SDS),
exposure scenarios (ES),
risk management measures
(RMM) and
operational conditions (OCs)**



REF-5 Timeline



Scope of REF-5

- Consistency of ext SDS with the chemical safety report (CSR)
- Communication in the supply chain (SDS and Exposure scenarios (ES))
- Implementation of risk management measures (RMM) and operational conditions (OC) at workplaces
- Duty holder's internal control routines
- Registered hazardous substances >10 ton/year

Duty holders targeted

First level suppliers

- Importers
- Manufacturers
- Re-importer
- Only Representatives

Suppliers

- Formulators
- Refillers
- Distributors

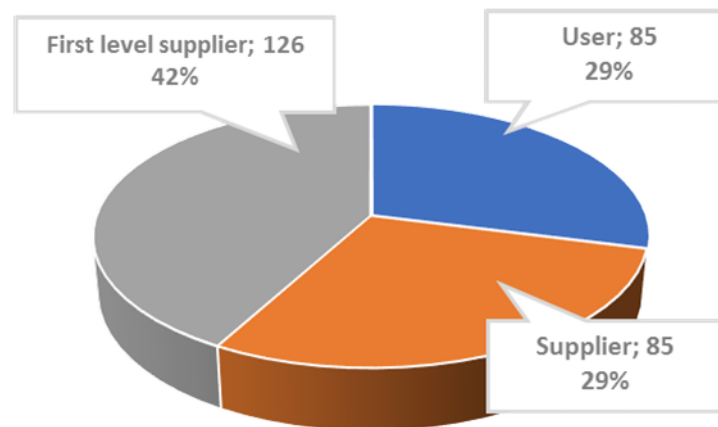
Users

- Professional use
- Industrial use

- 29 participating countries
- 898 companies inspected
- 1435 substances/SDS checked
 - 375 different substances
- 71% SMEs
- Cooperation with labour (325) and environmental (115) inspectors (“User” inspections)

Main Results 2/4

- 163 (18%) companies had at least one non-compliance
- 243 substances with at least one non-compliance
- Substances most reported with non-compliance



Substance	No. of non-compliance / No. controls
Styrene	16/36 (44%)
Ethanol	10/68 (15%)
Acetone	8/39 (21%)
Methanol	8/24 (33%)
Xylene	7/30 (23%)
Formaldehyde	7/38 (18%)
Sulphuric Acid	7/62 (11%)
Aluminium sulphate	7/19 (37%)
Hydrogen chloride	5/49 (10%)
Zinc oxide	5/11 (45%)
Rosin	5/9 (56%)

- **First level suppliers**

General low (3-10%) non-compliance in relation to obligations to provide information on workers and environmental protection in the ext SDS

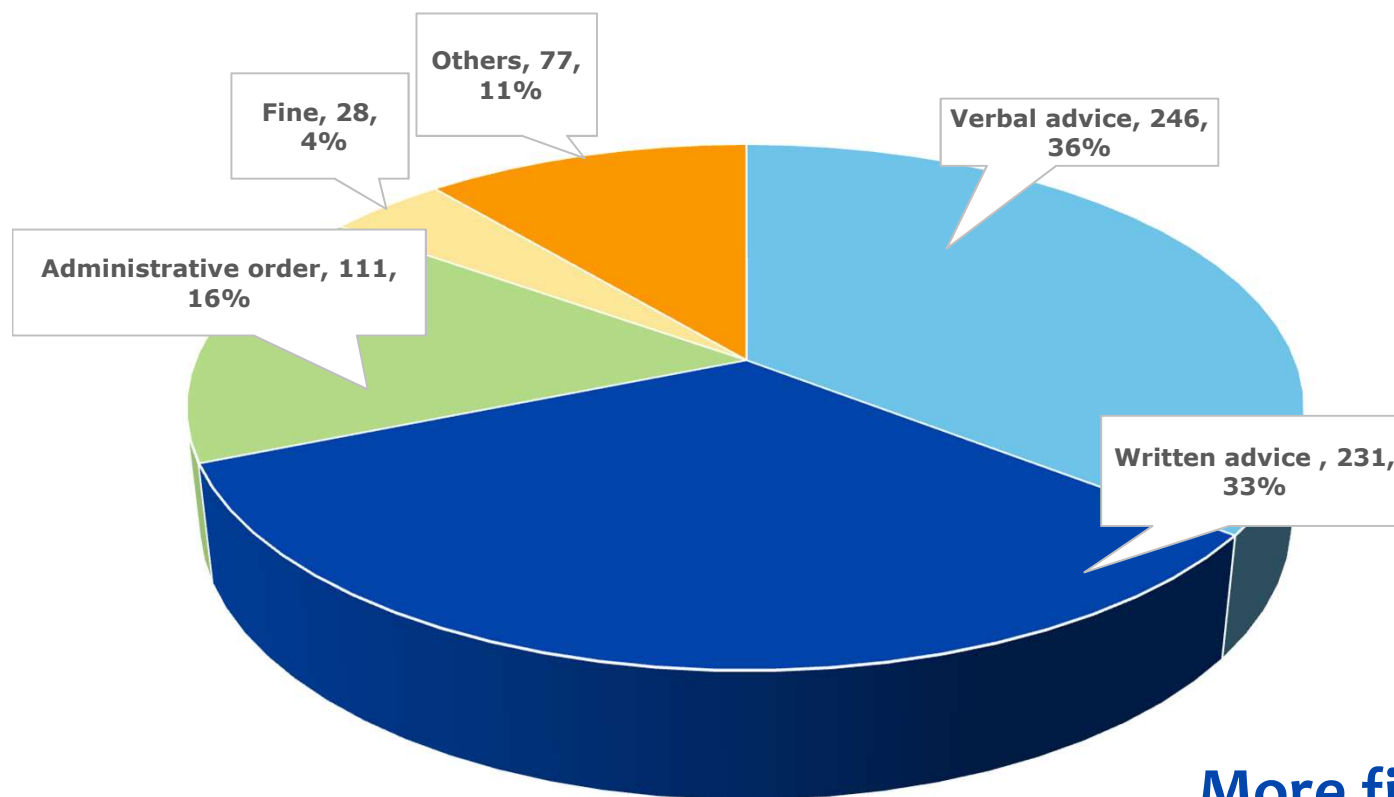
- **Suppliers**

General low (1-9%) non-compliance in relation to the communication duties up/downstream

- **Users**

General low (2 and 10%) non-compliance in relation to communication of safe use information to the workers/representatives

Distribution of enforcement measures



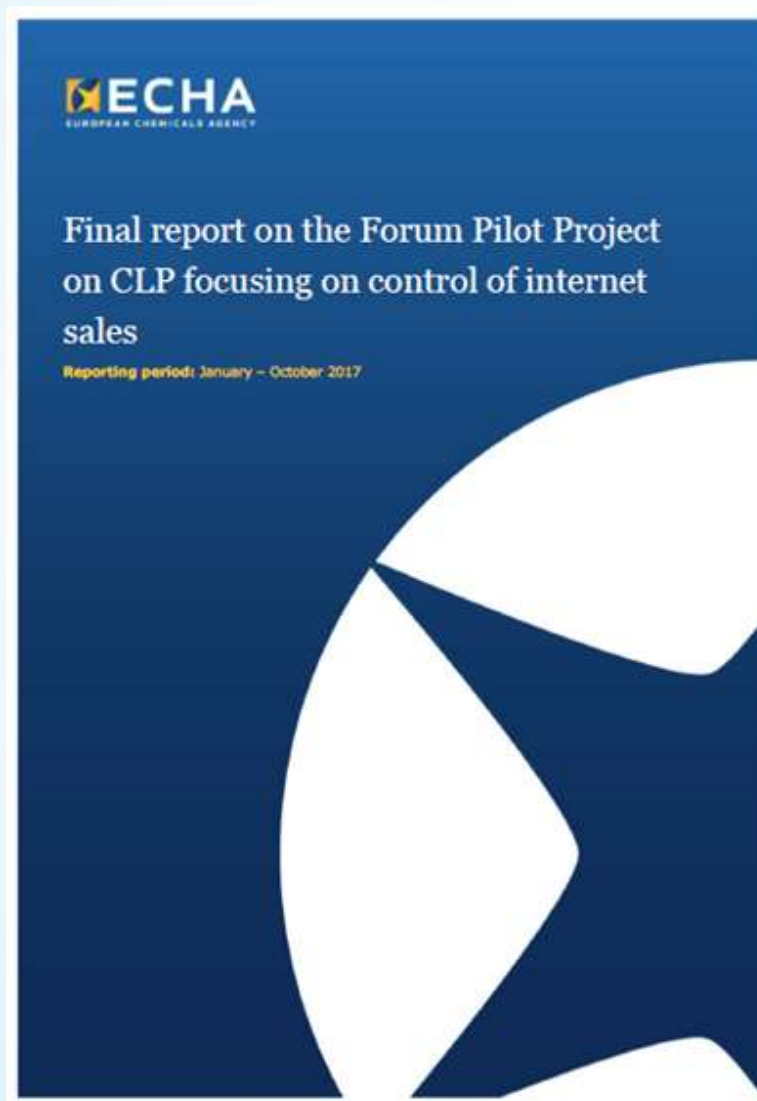
**More findings in the
Project Report**

- Systems in place for transfer and communication of safe use information within the supply chain
- Consistency between CSR/Ext SDS
- Low quality information in the supply chain
-> Intention of CSA/CSR concept not attained (yet)

To Industry

- **Registrants:** Propose more functional risk management measures as part of the CSR and the corresponding ES in the SDS;
- Ensure that registration dossiers and associated CSR and the extended SDS are kept updated;
- **Downstream users:** continue working in the communication up the supply chain, by providing feedback to the suppliers on incorrect/inappropriate information in the extended SDS received;
- Use the available tools (e.g. the ones generated by Exchange Network on Exposure Scenarios (ENES)) to help improving the quality of the ES/extended SDS [[REACH review Action 3](#)]

Forum pilot project on CLP focusing on control of internet sales



Objectives and timelines

Objectives

- Enforcing the requirements of Article 48(2) of CLP by checking the compliance of advertisements of hazardous chemical mixtures offered for sale on the internet
- Harmonising approach and collecting experience for inspectors
- Raising awareness amongst dutyholders

Timelines

- Inspections: January – August 2017
- Reporting: September 2017 - February 2018

- 15 countries participated in the project. **1314** inspections were completed by 14 countries
- the main type of mixtures checked according to their use were household (37.7%), construction (16.7%) and motor (14%) products
- the largest type of suppliers were professional suppliers 97.1%
- high **rate of non-compliance** was found (**82.4%**) with Article 48(2) of CLP
 - No information was provided on hazard statements and/or supplementary statements in **83.3%** of non-compliant cases
- [Final Report](#) is available on ECHA's website

Types of actions initiated against the company/supplier

Type of action	Amount
Verbal advices	124
Written advices	460
Administrative orders (in majority order to bring the information in the advertisement in compliance was issued),	184
Fines	280
Criminal compliance or handing over to the public prosecutor	4
Other legal actions	24
Follow up activities were still on-going (status on 31 August 2017)	321

Recommendation to industry

Industry and trade associations could develop common strategies to clarify what is a lawful sale on the internet. For this purpose, a collection of positive examples could also be compiled by industry and distributed to associations for the information of the companies concerned.

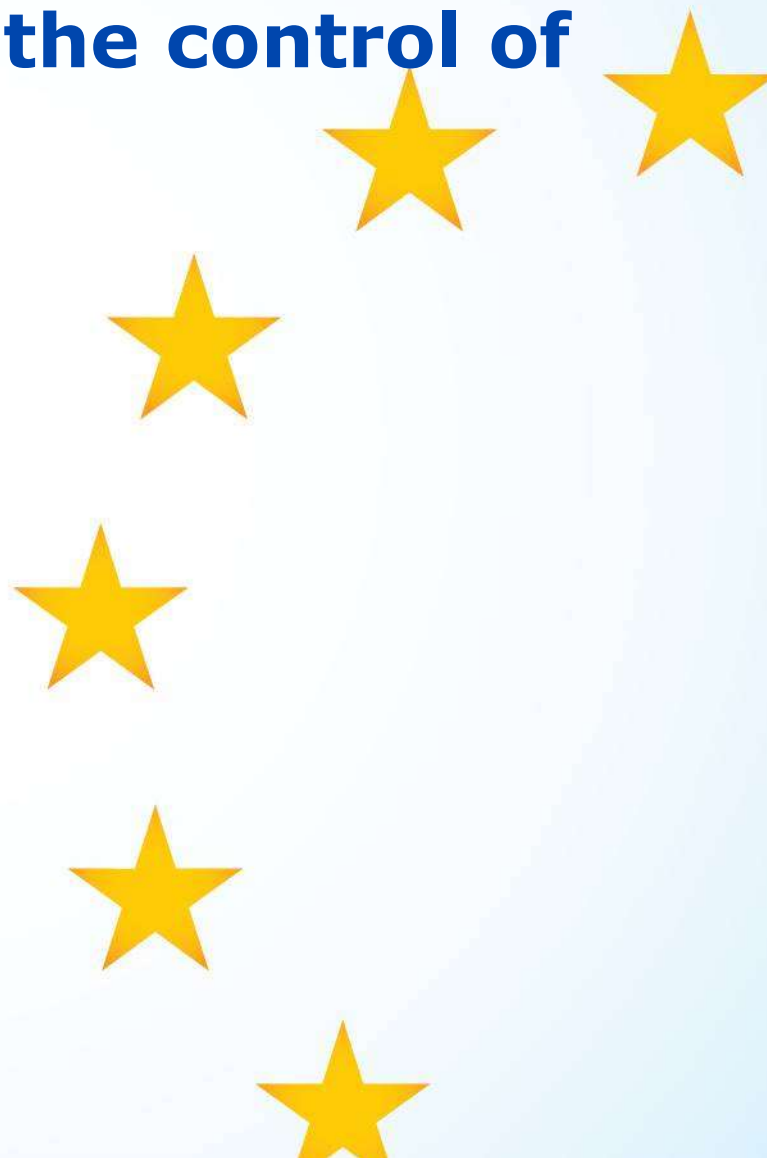
Suggestions for ASOs:

- develop guidance/strategies to clarify what is a lawful sale on the internet
 - please check **ECHA [Q&A 0273](#)** - clarifies the obligation related to Article 48(2) of CLP
- send proposals of the issues that could be discussed by Forum/NEAs regarding the internet sales

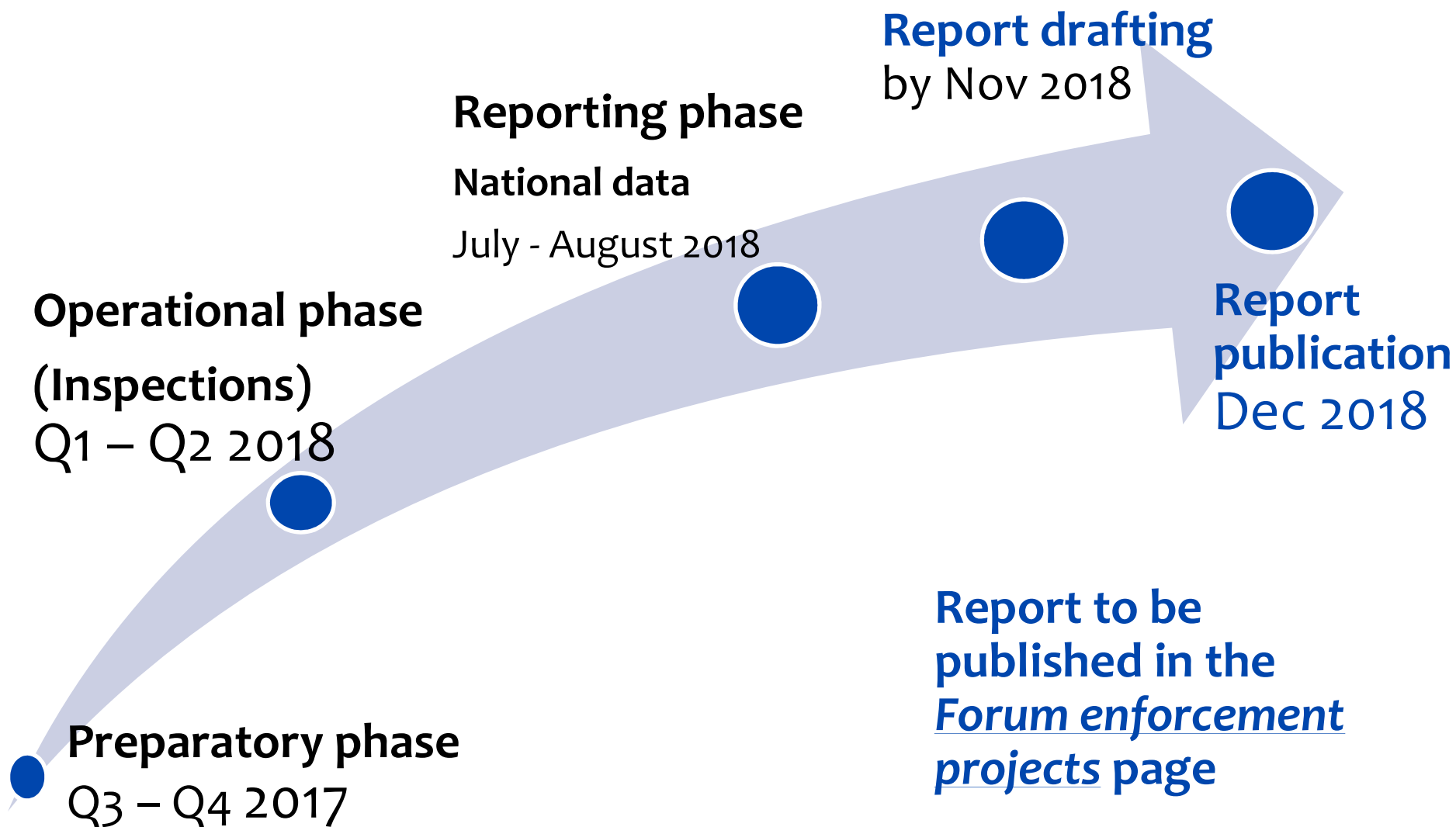
Based on the high rate of non-compliance observed in the results of the project the Forum at the Forum-30 plenary meeting agreed to:

- start the Forum **REACH-EN-FORCE 8 project** on the 'Enforcement of CLP and REACH duties related to substances and mixtures sold on-line'

Forum Pilot Project on the control of PIC



Project timeline



- PIC exporters (role under REACH or not)
- All substances of Annex I and V of PIC
- Other substances exported

Excluded:

- *Imports/Importers*
- *"Substances in Articles"*

Article	Description
8	Export notifications forwarded to Parties and other countries
14	Obligations in relation to export of chemicals other than export notification
15 (2)	Export of chemicals as listed on Annex V is prohibited
17	Information to accompany exported chemicals (Packaging and labelling, SDS and language)
Annex I	Chemicals subject to export notification, chemicals qualifying for PIC notification and chemicals subject to PIC procedure
Annex II	Information required in the export notification pursuant Article 8
Annex V	Chemicals and articles subject to export ban

- 13 participating countries
 - 296 inspections (per substance)
 - 3 optional modules
- ☐ Module A (290 inspections)
- ✘ No export notification/no exemption: 17 cases
 - ✘ No Reference Identification Number (RIN): 3 cases
 - ✘ No valid RIN during export period: 12 cases
 - ✓ 2 substances of Annex V (banned): both compliant with 15(2)

Module B (147 inspections)

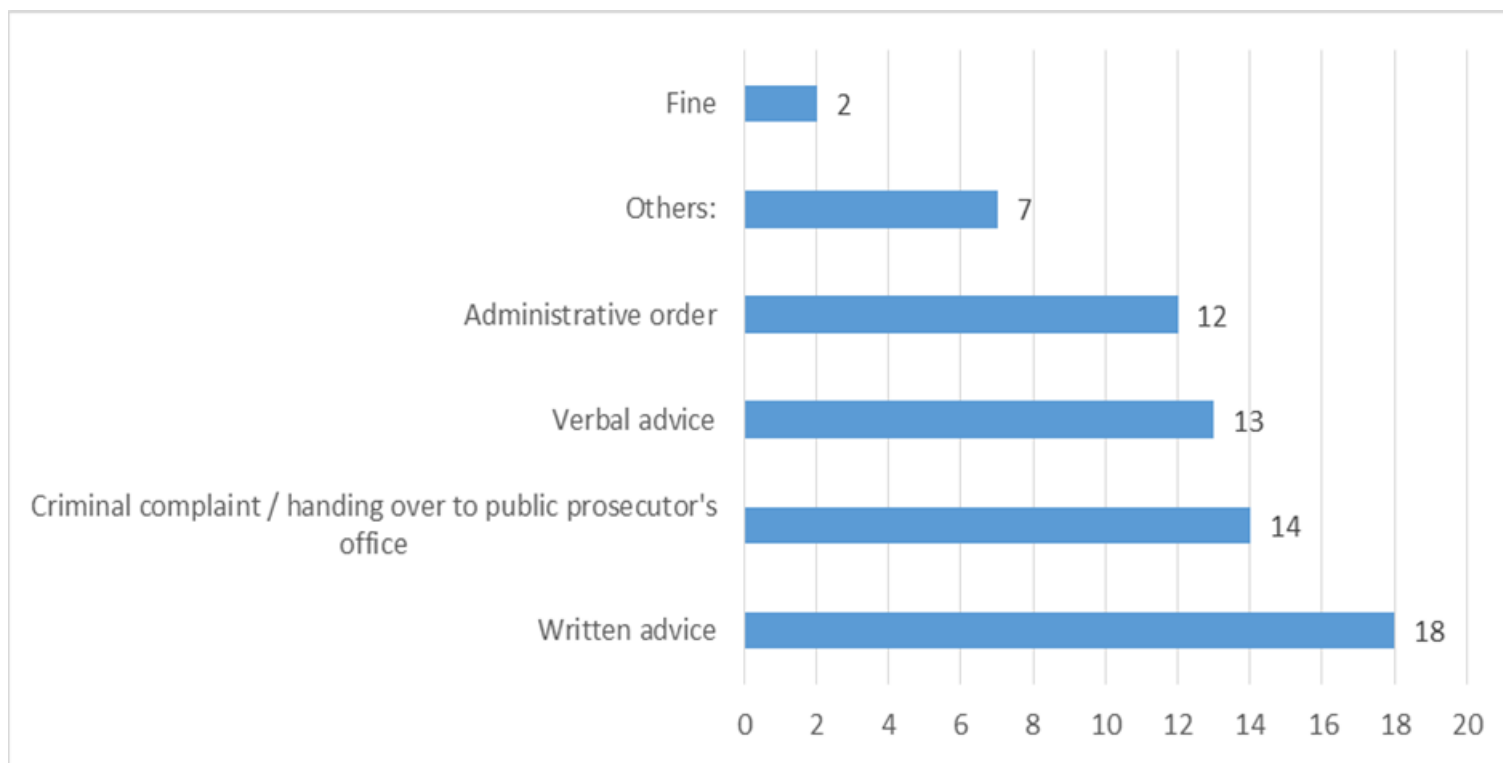
Non-compliance with Article 17

- ✘ Related to packaging provisions (CLP): 2 cases
- ✘ Related to labelling provisions (CLP): 6 cases
- ✘ Related to SDS provisions (REACH): 7 cases
- ✘ Related to the language provision (17(4)): 16 cases

Module C (97 inspections)

- ✘ Non-compliance with Article 8 PIC: 3 cases
- ✘ Export notification (RIN in box 44) not checked (Art 19(1) PIC): 43 cases
- ✘ Box 44 not filled in correctly: 4 cases

Distribution of enforcement measures



**More findings in
Project Report**

- Clarification that PIC Article 17 duties are to be complied by companies exporting any substances, not only the ones included in Annex I or V of PIC
- Awareness raising on obligations of exporting companies
- Practical experience with PIC enforcement
- No unique customs code is available for substances of Annex I and V of PIC

To Industry

- Continue (and improve) the compliance with PIC and also CLP and REACH obligations in relation to exported substances
- Companies exporting hazardous substances, **not only the ones included in Annex I and V of PIC**, should be aware of their PIC-related duties under Article 17 PIC.

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