

MINUTES OF THE SEVENTH MEETING OF THE UK REACH ENFORCEMENT LIAISON GROUP (ELG)

HSE HQ, Redgrave Court, Bootle, Merseyside
Monday 21st May 2012

Organisations represented

Health and Safety Executive (HSE), REACH Compliance Team (RCT)
Environment Agency (EA)
Northern Ireland Environment Agency (NIEA)
Department of the Environment, Food and Rural Affairs (Defra)
UK Border Force (previously represented as UK Borders Agency) (by teleconference)
HSE Operational Inspector

A representative from the Irish Health and Safety Authority (HSA) attended as an observer

Apologies received from:

Home Office (Animals, Scientific Procedures Division)
HSE, International Chemicals Unit (ICU)
Scottish Environment Protection Agency (SEPA)
Department of Energy and Climate Change (DECC)
Health and Safety Executive Northern Ireland (HSENI)

Chair and Secretariat functions were provided by HSE's RCT.

1. Welcome and introductions

The Chair of the ELG welcomed all members and the observer from the HSA, thanking them for their attendance. Participants introduced themselves for the benefit of the observer and the teleconference participant.

2. Administrative issues

(i) Approval of minutes from the last meeting:

The minutes of the last meeting were agreed. **Action: Secretariat to publish on website.**

(ii) Outstanding issues from last meeting:

The only outstanding action relates to the MoU. HSE, (ICU) lead on this item. In their absence discussion was **postponed to the next meeting, but participants were asked to provide signatures as soon as possible.**

3. Feedback on recent operational activities including enforcement action

(i) UK RCT activities and future plans:

A member of the UK RCT gave a verbal summary of recent enforcement activities. The ongoing, proactive work was outlined. Work on REF – 2, the second EU-wide co-ordinated enforcement project continues. The project focuses on supply chain duties, including Safety Data Sheets (SDS's). The final report is due in November 2012.

The third EU co-ordinated enforcement project (REF-3) is being scoped and work should commence in 2013. The project is expected to look at registration duties and will involve interactions with customs. It is also envisaged that the project will look at the role of Only Representatives (OR). This particular aspect of the project will be of particular relevance to the UK, which has a relatively large number of ORs compared to other MS.

The UK RCT will revisit the issue of asbestos being present in the string of sky lanterns. This follows the receipt of new intelligence indicating that further products are being offered for sale on the UK market and also in other Member States by UK traders using the Internet. The Team has already completed a previous project on this matter, as reported at the 6th ELG meeting. The RCT has also received complaints about other articles containing asbestos which are being offered for sale on the Internet.

An awareness campaign will soon commence aimed at reminding fireworks importers of their duties under REACH. The EA stated that they had previously undertaken enforcement related work with this industry. Their most recent activities in February 2012 had not identified any non-compliance.

A range of other proactive projects are also under consideration. The commencement of these will depend upon enforcement priorities and the range of reactive work requiring attention.

Reactive work is ongoing, based on complaints, confessions and referrals. Many of these issues relate to incorrect pre-registrations due to incorrectly identified substances. A number of complaints have also been received about the length and quality of information within SDSs.

The RCT has received a number of referrals from other Member State CAs, the majority relate to on-line sales originating in the UK. Where appropriate the UK also refers cases on to other MS.

Up to 21st May 2012 there have been 260 interventions by the RCT. The majority of the interventions have resulted in the provision of advice and guidance, however this has also resulted in 45 notices.

The RCT confirmed that they are participating in a pilot project organised by ECHA to look at registration of intermediates. As part of the project the CA will participate in the ECHA meeting on Intermediates to be held at the end of May 2012. To date the UK has not received any requests for advice from companies who have been sent an Article 36 letter by ECHA.

(ii) The EA gave a presentation about their recent enforcement activity and future plans. Highlights included:

- Work on the EU-wide PAHs in tyres is now complete and the final report will be presented at the next ECHA Forum in June 2012.
- Investigations into the presence of NP/NPE in personal care and cleaning products is complete. 2 Formal cautions, 2 Advisory letters and 1 enforcement notice have been issued.
- The presence of NP/NPE in imported textiles has also been investigated. The results of the work have been sent to Sweden for consideration and incorporation into their work as they are leading activities on the potential amendment to the NP/NPE restriction. EA intend to publish their findings in a report.
- A joint investigation with HSE is currently ongoing. It relates to the import and export of lindane. This has led to 315kg of redundant Lindane being destroyed. A potential breach of EU regulations by a Spanish company has been identified. This information has been passed to the Spanish Authorities.
- An investigation into the use of PCBs in bakeries and dairies is ongoing. Work done to date has been successful in raising awareness of REACH within these industries and has led to several new registrations of potentially contaminated equipment.
- Information notices have been issued following a small PCB campaign comparing what was reported for disposal with entries in the register.
- Collaboration with CLEEN on the Europop campaign. This has involved the EA in sharing information with other MS's regarding HCB in fireworks and giving a presentation to the last CLEEN conference on EA's methods of working and successful prosecution involving fireworks containing HCB.
- Planned future activities include:
 - A 12 month project looking at diffuse pollution with respect to the Water Framework Directive.
 - Other ongoing work streams include:
 - A Team member is the UK contributor to the REACH Enforcement Forum Working Group on Enforceability of Restrictions.

- EA and HSE will jointly host the 2013 CLEEN conference on 17th September 2013 in London.

4. Developments at European Level

(i) Feedback from Forum 11

Forum 11 took place in February 2012 and was followed by a Commission-led Stakeholder Day on REACH enforcement. Detailed notes of these meetings have been previously circulated to members. A brief summary of the key points for the UK is below:

Key points of Forum 11;

- Highlights from a Commission-funded report on restrictions were presented. A large number of the positive comments regarding best-practice related to UK activities.
- A manual of conclusions is being prepared. This will collate all the conclusions the FORUM has taken including those from earlier meetings.
- The exchange visit by Spain/Lithuania to the UK was well received. Both the EA and HSE had provided input during the visit. ECHA is considering whether or not to fund further exchanges.
- ECHA has a new corporate identity and has amended its website.
- RIPE version 1.5 has been released. This is a tool for enforcers. ECHA has indicated that it will only develop RIPE version 2 if 1.5 has sufficient use. **Action: ELG Members to encourage colleagues to make use of RIPE 1.5, as version 2 would contain useful additional features of benefit to the UK enforcement authorities.**

The next FORUM meeting will be held in the week commencing 18th June 2012. Members were invited to offer comments for discussion by the end of the previous week. **Action: Members to send any comments on the FORUM 12 papers to the RCT by the 15th June 2012.**

A Stakeholder day will be held during FORUM 13.

The Commission-led stakeholder day was held to coincide with the end of Forum 11. It was well attended with around 450 delegates and a further 1000+ watching the live web-stream. A wide range of organisations were represented including Industry, NGO's and MS enforcement authorities (many attending in their role as FORUM members). The day was split into three sections with presentations provided by Commission, the FORUM and a Q&A session involving a panel comprising representatives from a trade association, a pressure group the FORUM (including the UK Member) and stakeholders.

The day was well received. As part of the discussions CEFIC had encouraged Industry to play their part in the effective implementation of REACH. The views offered by DG Enterprise regarding the enforcement of REACH were broadly in line with the UK's

enforcement policy. A presentation had been delivered regarding experiences with Article 33 requests. To date the UK has not received any complaints related to this duty.

5. Update from Defra/UK REACH CA

Defra summarised recent changes to REACH restrictions:

- The Mercury Measuring devices restriction has been extended to include additional measuring devices.
- A new restriction has been introduced relating to 5 methyl mercury compounds primarily used in polymer manufacture.
- A new restriction relating to lead in jewellery has been prepared, but still requires EU Parliamentary scrutiny and agreement. It is envisaged that Local Government (Trading Standards) will be the main enforcer, although some work could fall to the UK Border Force.
- Changes have been made to the cadmium in plastics restriction, reducing the number of plastics to which the restriction applies.

The Commission is expected to release its communication on the REACH Review in June. Some of the background research is already available on the internet.

As a result of the Government's Red Tape Challenge, the 2008 Enforcement Regulations are to be merged with two other sets of chemical enforcement regimes. The changes will be of most significance for EA and SEPA as they relate to environmental issues.

The 2008 Enforcement Regulations are also being amended to take account of other issues, including;

- Taking up the possible derogation from the Annex XVII restriction on sale and use of paint strippers containing dichloromethane (DCM) to permit continued professional use. HSE lead on this issue,
- Taking up the possible exemption from the Annex XVII restriction for continued sale and use of certain articles containing asbestos.
- Allowing for any changes to Annexes XVII and XIV to be automatically included within the terms of the enforcement regulations

ii) Progress on MoU

The member from HSE (ICU) was unable to attend the meeting, so a progress report was not delivered. **Action: MoU to be discussed at the next meeting.**

6. ELG work programme

(i) Revised work programme

The Chair thanked Members for their input in amending the format of the work programme. The revised version was presented for consideration and accepted as the new format for use

by the group. The programme now contains a table which gives an overview of the work, as well as separate text on the individual work packages.

(ii) Review of work packages

Members summarised progress with the various packages in the work programme.

The EA agreed to demonstrate their prioritisation tool at the next meeting, as part of continued discussions on selection of risk criteria. **Action EA.**

The development of the process to facilitate requests for information from HMRC and UKBA is currently on-hold pending signing of the MoU. The UK Border Force confirmed that it would be acceptable to request the provision of information ahead of the formal process being in-place.

The Secretariat demonstrated the spreadsheet being developed to capture enforcement activity information for inclusion in EFSA's Article 117 report. A number of pick-lists have been incorporated to ensure the results comply with the Article 117 reporting requirements. However, the current version also records other information not required by the Article 117 report. The Secretariat agreed to circulate the template to Members so they could consider how much non-essential information they wished to include. Members indicated they would prefer to complete the spreadsheet on an ongoing basis rather than once every 5 years.

Action: Defra and RCT to confirm that the previous Article 117 reporting requirements will be retained. The Secretariat to amend the template in light of these discussions and circulate for consideration and comment by Members.

7. AOB

(i) The ELG Member who has previously represented UKBA advised that their Team became part of the UK Border Force on 1 March 2012, but continued to perform the same role. UK Border Force is a separate operational command within the Home office and is directly accountable to Ministers. **Action: HSE (ICU) to consider if the change impacts on the MOU which is being developed.**

(ii) EA sought advice on obtaining contact details for Local Authorities. HSE suggested contacting HSE's Local Authorities Unit for advice relating to particular areas.

8. Date of the next meeting:

A date for the next meeting was agreed for approximately December 2012. **Action: secretariat to obtain availabilities of members nearer the time.**

The chair brought the meeting to a close, thanking all members for their attendance and contribution.