

## Forum

# **REPORT** **‘Survey on OSH-REACH enforcement interactions’**

Reporting period: May-October 2019

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## Executive summary

The Forum Working Group 'Survey on OSH-REACH Enforcement Interactions' was established at the Forum-31 plenary meeting. The Working Group (WG) prepared a survey on OSH-REACH enforcement interactions, collected the responses and prepared the report following the Forum-34 plenary meeting.

The survey aimed to check how national occupational safety and health (OSH) and REACH enforcement inspectors interact with one another in checking compliance under their respective legislation. This was achieved by identifying areas where cooperation occurs between REACH and OSH enforcement authorities, and areas where the respective duties of OSH and REACH are checked separately.

Within the scope of this survey, OSH inspectors are defined as those responsible for enforcing both the Chemical Agents Directive (98/24/EC (CAD)) and the Carcinogens or Mutagens at Work Directive (2004/37/EC (CMD)) whereas REACH inspectors enforce the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation (EC) No. 1907/2006).

All 31 countries of the EU and EEA<sup>1</sup> responded to the survey. The results clearly show the areas of divided responsibility for enforcement between REACH and OSH inspectors as well as areas where both cooperate and share responsibilities.

Responsibility for enforcing the provisions related to requirements for chemical safety assessments (CSAs) and strictly controlled conditions (SCCs) lies mainly with REACH inspectors.

As expected, OSH inspectors are the primary enforcers of the relevant provisions relating to workplace risk assessments under CAD and CMD and compliance with occupational exposure limit (OEL) values under OSH at the workplace.

Inspectors share responsibility for certain areas: checking information in safety data sheets (SDSs) and exposure scenarios (ESs) and enforcement of the related provisions. In most countries, both REACH and OSH inspectors check information on control measures and emergency measures in SDSs. However, REACH inspectors mostly check classification details in the SDSs.

REACH inspectors are mainly responsible for enforcing compliance with SDS/ES requirements. OSH inspectors are also active in enforcement, although in some countries this happens only partially.

The majority of countries have systems in place for both REACH and OSH inspectors to refer on issues relating to differences in SDS requirements and practices in the workplace. Regarding checking information in ESs, two-thirds of OSH inspectorates check uses and risk management measures in the ESs, however, methods for exchanging information with REACH inspectors are not as widely used as for SDSs. This requires improvement nationally between REACH and OSH authorities.

The findings also show that both REACH and OSH inspectors enforce compliance with derived no exposure limit (DNEL) values at the workplace. However, neither inspectorate focuses on enforcing these values in a small number of countries, and REACH inspectors do not do so in half of the responding countries. When questioned on which reference value is checked during

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<sup>1</sup> AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IE, IS, IT, LI, LT, LU, LV, MT, NL, NO, PL, PT, RO, SE, SI, SK, UK

an on-site visit or for a workplace risk assessment, inspectors in only 18 countries check the DNEL, with more REACH than OSH inspectors carrying out checks. In contrast, OSH inspectors in all responding countries check the OEL values.

The survey responses indicate that although REACH inspectors predominantly enforce restrictions under REACH, OSH inspectors also contribute to the enforcement albeit only partially in some cases. When it comes to checking for the presence of restricted substances and verifying conditions of use, two-thirds of OSH inspectors are responsible.

Similarly, REACH inspectors mainly check and enforce the provisions relating to authorisation under REACH. OSH inspectors are involved in checking for substances subject to authorisation on site and contribute significantly, alongside REACH inspectors, in ensuring that exposure is controlled. While REACH inspectors primarily check supply chains and enforce compliance with conditions of use, approximately one third of OSH inspectorates are also involved.

It is encouraging to note that there is an established method of cooperation between REACH and OSH authorities in all but one country. Respondents indicated several examples of good practices for cooperation between REACH and OSH inspectors at national level. These include joint inspections, trainings and regular meetings between both inspectorates.

The greatest challenges cited by respondents at national level are:

a lack of resources;

different priorities for different authorities; and

a lack of knowledge or competence on the other piece of legislation.

The Working Group has set out the responses from contributing countries in this report and, based on the findings, has outlined some recommendations for the Forum, national enforcement authorities (NEAs) inspectors (REACH and OSH) and the Commission. The main recommendations focus on further strengthening cooperation between REACH and OSH inspectors through:

- joint inspections at workplaces dealing with chemicals;
- regular meetings;
- exchanging knowledge;
- organising trainings, where relevant; and
- providing clear guidance where there is a need to clarify duties, obligations and the benefits of working together.

## 1. Introduction

The Working Group (WG) 'Survey on OSH-REACH enforcement interactions' was established at the Forum-31 plenary meeting with a mandate to prepare, send and process the results of this survey to support the Commission on Action 12(2) of the 2017 REACH Review<sup>2</sup>. Action 12(2) looks to improve the coordination of national enforcement authorities responsible for REACH and occupational safety and health (OSH) legislation. The Forum stated its intention to support the Commission in implementing this action in the Forum Work Programme 2019 – 2023<sup>3</sup>.

Companies using chemicals are obliged to comply with the provisions of both REACH and OSH legislation (the Chemical Agents Directive (CAD) and the Carcinogens or Mutagens at Work Directive (CMD)). Since OSH inspectors focus their inspections on the protection of the employees who are users of chemicals (regardless of their place in the supply chain under REACH) and REACH inspectors check all REACH-related obligations for chemical substance/mixtures/articles, this survey concentrates on the areas where REACH and OSH requirements on the use of chemicals overlap.

The WG prepared the survey, consulting with the Forum, SLIC WG CHEMEX and the Commission on the draft survey questions. The final survey consisted of three sections (see Annex 1): section I - general questions on the participating country, section II – distribution of responsibilities and cooperation between REACH and OSH inspectors and section III - questions on specific REACH and OSH duties.

The survey was managed and submitted by Forum members, who were requested to liaise with their OSH enforcement colleagues at national level. This ensured that the WG received only one completed coordinated survey per country so that coherent results and conclusions could be provided to the Commission and the Forum.

The survey was circulated to Forum members on 2 May 2019 with a deadline for responses set on 31 May 2019. All 31 Forum members replied to the survey.

## 2. Objectives of the survey and participating Members States

There were two main objectives of the survey for the Forum:

- to support the Commission in understanding how enforcement is coordinated in 31 countries of the EU and EEA in situations where there is interaction between REACH and OSH requirements;
- to determine if there is a need for remedial actions such as joint projects or training for REACH and OSH enforcement authorities.

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<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2018:116:FIN>

Action 12: Interface REACH and OSH legislation

The Commission will propose the following concrete steps to remove the overlaps and clarify the interface between REACH and OSH:

(1) How to use REACH tools (e.g. exposure scenarios, safety data sheets) to enhance the effectiveness of OSH legislation.

(2) Improve the coordination of national enforcement authorities of REACH and OSH legislation

<sup>3</sup> Forum Work Programme 2019 – 2023:

[https://echa.europa.eu/documents/10162/13577/forum\\_work\\_programme\\_2019-2023\\_en.pdf/f8add1f0-f25e-abfc-fb0d-5ad66c717a6e](https://echa.europa.eu/documents/10162/13577/forum_work_programme_2019-2023_en.pdf/f8add1f0-f25e-abfc-fb0d-5ad66c717a6e)

### 3. Results and conclusions

#### 3.1. General questions

All 31 Forum members submitted a completed survey on behalf of their national REACH and OSH inspectorates. In some countries, the same national authority is responsible for enforcing both REACH and OSH obligations.

#### 3.2. Distribution of responsibilities and cooperation between REACH and OSH inspectors

In Section II of the survey, relevant authorities were requested to indicate the distribution of responsibilities between inspectors regarding the enforcement of REACH and OSH (CAD and CMD) duties. Additionally, authorities were asked to provide examples of challenges faced in dealing with requirements under REACH and OSH which require interaction and finally, to share good practices for cooperation between the authorities.

The responses are as follows:

##### 3.2.1. Enforcement of the requirements for a chemical safety assessment under REACH

**Table 1:** Enforcement of requirements for chemical safety assessments

Enforce provision	REACH inspector	OSH inspector
Yes	27	8
No	2	21
Partially	2	2

REACH inspectors predominantly enforce the provisions relating to chemical safety assessments (CSAs) with eight respondents indicating that OSH inspectors check compliance with these duties.

Of those respondents who partially enforce these requirements, one stated that the duties are partially covered by REACH inspectors, where they only enforce exposure scenarios (ESs) for substances and would not have direct access to the CSA. In another country, OSH inspectors partially enforce this provision where the CSA is part of a workplace risk assessment. A further response indicated that both OSH and REACH inspectors jointly enforce the requirements, for example, during joint inspections.

##### 3.2.2. Enforcement of the requirements relating to a workplace risk assessment under OSH legislation for chemicals

OSH inspectors in all responding countries enforce this obligation (31 responses) with a small number of REACH inspectors (five out of 31) indicating that they also enforce the relevant provisions under CAD and CMD.

### 3.2.3. Enforcement of the requirements related to safety data sheets and exposure scenarios under REACH

**Table 2:** Enforcement of safety data sheets and exposure scenarios under REACH

Enforce provision	REACH inspector	OSH inspector
Yes	27	15
No	1	9
Partially	3	7

The majority of REACH inspectors enforce the provisions relating to safety data sheets (SDSs) and exposure scenarios (ESs). However, it is evident from the results that OSH inspectors also contribute significantly to enforcing SDSs/ESs, either fully or partially.

Of those who responded that both OSH and REACH inspectors partially enforce the requirements of SDSs and ESs, two respondents explained that OSH inspectors are responsible for the employer-related duties. However, REACH inspectors also check the correctness of SDSs/ESs for the initial placing on the market by the first level supplier.

The five<sup>4</sup> remaining respondents, whose OSH inspectors are partially responsible for enforcing SDSs and ESs in their country, stated that OSH inspectors check the information in SDSs/ESs in relation to measures for the reduction of exposure to workers. One respondent stated that OSH inspectors check only Sections 1 to 8 of the SDSs.

### 3.2.4. Enforcement of compliance with occupational exposure limit (OEL) values (EU or national) at the workplace under OSH legislation

The majority of OSH inspectors (30 out of 31) enforce the provisions relating to OEL values at the workplace with only one country stating that their OSH inspectors do not enforce this duty. Additionally, in six out of the 31 countries REACH inspectors also enforce the compliance with OEL values.

### 3.2.5. Enforcement of compliance with derived no effect level (DNEL) values under REACH at the workplace

**Table 3:** Enforcement of DNELs at the workplace

Enforce provision	REACH inspector	OSH inspector
Yes	12	10
No	15	13
Partially	4	8

<sup>4</sup> In one country, competencies are mixed and responses are therefore not as clear-cut.



REACH and OSH inspectors enforce compliance with DNEL<sup>5</sup> values at the workplace almost equally in a number of countries. However, in almost half of the countries, neither inspector addresses the enforcement of these values.

Comments from the countries that stated that DNELs are only partially checked show that, in some cases, DNELs are only checked in the context of inspections on restrictions or authorisations (by REACH inspectors) but not on a routine basis.

From the perspective of OSH enforcement, DNELs are used in some countries as a basis for checking occupational health and safety measures on-site according to national law and when necessary, enforcement would be taken under OSH legislation to achieve better control measures and reduce exposure. OSH inspectors also check DNEL values in the absence of OELs.

Another respondent commented that REACH inspectors can only assess the correctness of a DNEL value's derivation but cannot assess its application in the workplace, while another stated that DNELs are evaluated to some extent along with OEL values. Two countries indicated that the OSH inspectors can only enforce the lower limit value (i.e. OEL) when there is an OEL which is lower than the DNEL.

### 3.2.6. Enforcement of compliance with authorisation requirements under REACH at the workplace

**Table 4:** Enforcement of compliance with authorisation requirements

Enforce provision	REACH inspector	OSH inspector
Yes	26	15
No	5	16

The majority responded that their REACH inspectors are responsible for enforcing REACH authorisation requirements at the workplace. In almost half of the responses, OSH inspectors take enforcement actions related to authorisation.

### 3.2.7. Enforcement of compliance with restriction requirements under REACH at the workplace

**Table 5:** Enforcement of restriction requirements

Enforce provision	REACH inspector	OSH inspector
Yes	24	14
No	3	9
Partially	4	8

In the majority of countries, REACH inspectors enforce restriction requirements under REACH, with 14 countries also indicating that OSH inspectors enforce these duties.

<sup>5</sup> DNELs are REACH-derived limit values for the identification of the risk management measures in the exposure scenario in a chemical safety report (CSR); these measures are then communicated in the ESs annexed to the SDS for a substance.

From the comments submitted on why inspectors partially enforce restriction requirements, the response was that OSH inspectors enforce only those restriction entries which are relevant for workplace exposure and REACH inspectors enforce restrictions concerning placing on the market.

### 3.2.8. Enforcement of strictly controlled conditions (SCCs) for intermediate substance registrations under REACH

**Table 6:** Enforcement of strictly controlled conditions

Enforce provision	REACH inspector	OSH inspector
Yes	25	11
No	3	19
Partially	3	1

REACH inspectors are predominantly responsible for enforcing requirements regarding SCCs. Three countries stated that REACH inspectors do not enforce these requirements and three more countries indicated they only partially enforce them. The survey respondents stated that OSH inspectors enforce SCCs in 11 countries, while 19 OSH inspectors do not and OSH inspectors in one country partially enforce the duties.

### 3.2.9. Methods of cooperation between REACH and OSH authorities within Member States

When survey participants were asked to indicate whether there is an established method of cooperation between REACH and OSH authorities in their country,

- 29 of the 31 respondents stated that cooperation is in place;
- one replied that a method is not relevant as REACH and OSH are covered by the same inspectors; and
- one answered that there is no cooperation formally in place.

A referral system for passing on cases of non-compliance was the most popular method of cooperation with 23 respondents stating that they have such a system in place. REACH inspectors refer cases to OSH inspectors in 18 countries and OSH refer to REACH inspectors in 21 countries.

Joint inspections between REACH and OSH inspectors are in place in 22 countries.

Authorities hold meetings in 18 countries and written memorandums of understanding are in place between REACH and OSH authorities in seven countries.

Other methods of cooperation include:

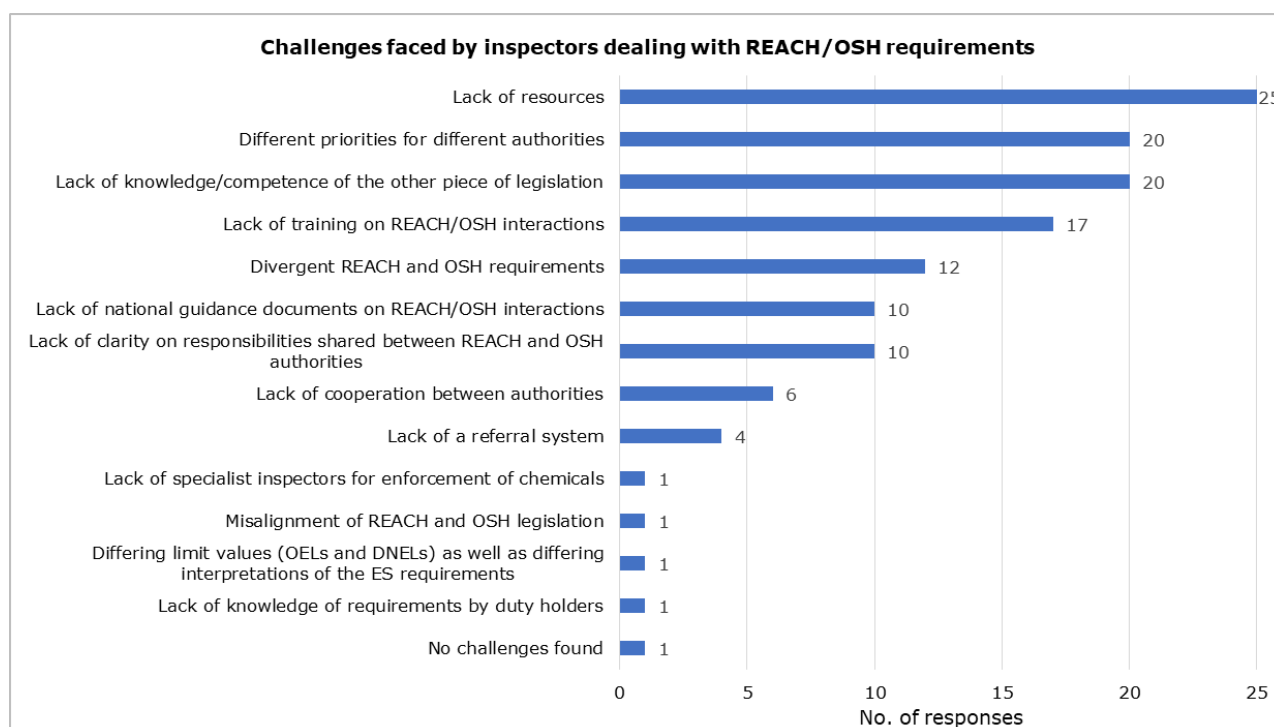
- available guidelines for enforcing REACH and CLP for inspectors;
- approved national legal requirements for cooperation between enforcement authorities; and
- case-by-case assessment.

### 3.2.10. Challenges faced by inspectors at national level that impact REACH/OSH requirements which interact with one another

When asked to indicate what challenges inspectors face nationally that have an impact when dealing with REACH/OSH requirements, only one survey response stated that authorities did not face any challenges.

The greatest challenges faced are included in Figure 1.

**Figure 1:** Challenges faced nationally by inspectors dealing with REACH/OSH requirements

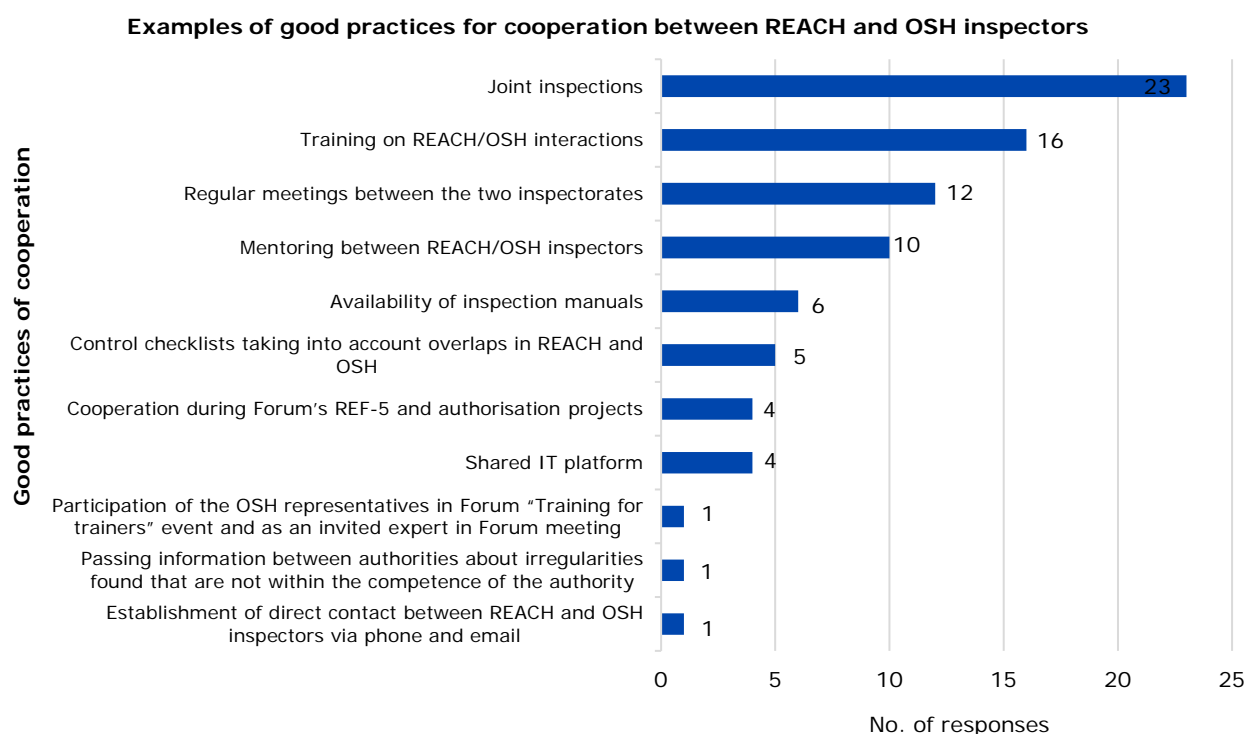


Some responses provided more clarity on why certain aspects were challenging. Regarding the challenges faced due to a lack of clarity on shared responsibilities between REACH and OSH authorities, respondents stated that authorities have different interpretations of the responsibilities of REACH and OSH authorities. In explaining why there was a lack of cooperation, some countries commented that although some level of cooperation had taken place, more was needed.

One country clarified that a lack of specialist inspectors for enforcing chemicals was because many inspectors handle inspections under several pieces of legislation and may lack expertise in specific areas.

### 3.2.11. Examples of good practices for cooperation between REACH and OSH inspectors

Figure 2 details the responses received regarding examples of good practices for cooperation between REACH and OSH inspectors.

**Figure 2:** Examples of good practices for cooperation between REACH and OSH inspectors

### 3.3. Detailed questions on specific REACH and OSH duties

In Section III of the survey, authorities were requested to provide details on how and by whom specific provisions under REACH are checked and whether REACH and OSH inspectors exchange relevant information. Details of the responses are below in Sections 3.3.1 - 3.3.6.

#### 3.3.1. Safety data sheet (SDS) checks under REACH and workplace risk assessment under OSH

##### 3.3.1.1. SDS checks

**Classification of chemicals in Section 2:** Countries were asked to indicate which inspectorate checks the classification of a chemical as provided in Section 2 of the SDS. In 17 countries, both REACH and OSH inspectors check the classification. In a further 13 countries, only REACH inspectors were responsible for checks.<sup>6</sup>

**Engineering control measures in Section 8:** Responses show that in 23 countries both REACH and OSH inspectors check the measures provided in the SDS. In three countries, only REACH inspectors check the relevant information in section 8 and in five countries, only OSH inspectors carry out checks on the information provided on engineering controls in Section 8 of the SDS.

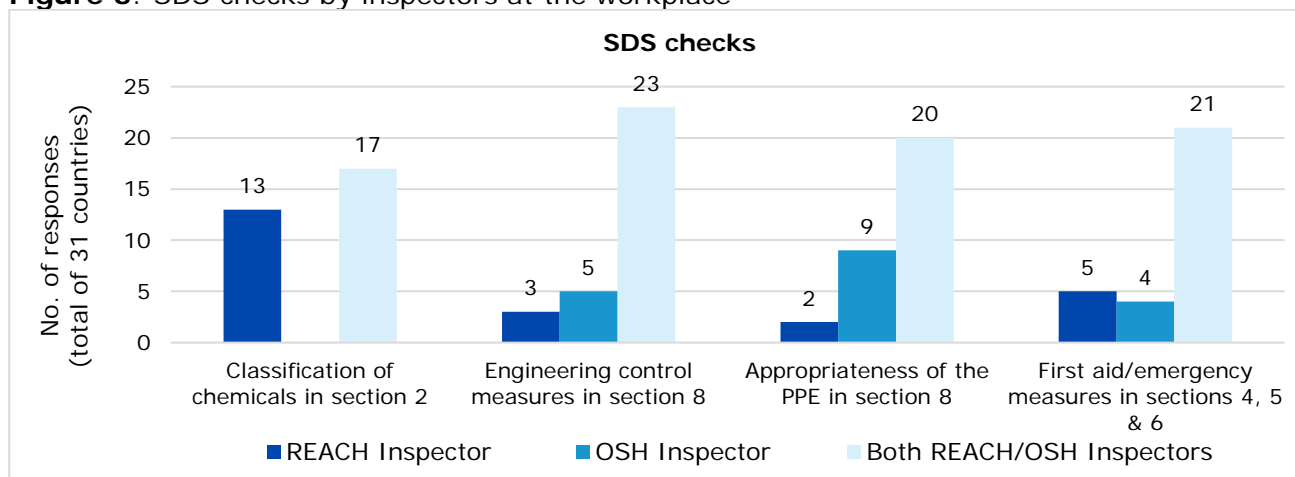
**Appropriateness of personal protective equipment (PPE) in Section 8:** Similarly, in the majority of countries (20 of 31) both REACH and OSH inspectors check PPE information in Section

<sup>6</sup> In one country, Regional Health Inspectorates are responsible for checks of the classification of chemicals in Section 2.

8. Nine countries stated that only OSH inspectors check PPE and REACH inspectors only check the information in two countries.

**First aid/ emergency measures in Sections 4, 5 & 6:** 21 respondents stated that both their REACH and OSH inspectors check these requirements nationally. REACH inspectors only check these sections of the SDS in five countries and OSH inspectors only check the information<sup>7</sup> in four countries.

**Figure 3:** SDS checks by inspectors at the workplace



### 3.3.1.2. Systems to refer information from OSH to REACH inspectors

In response to the question on whether there are systems in place for OSH inspectors to inform REACH inspectors where conditions (including control measures) onsite at the workplace do not match the information provided in the SDS, 24 respondents stated that such systems are in place. Seven countries do not have provisions in place to facilitate such an exchange of information.

### 3.3.1.3. Systems to refer information from REACH to OSH inspectors

Responding to the question on whether there is a system in place for REACH inspectors to inform OSH inspectors that the workplace risk assessment and information in the SDS are not aligned, 24 countries stated that there is a system in place with seven failing to have a method of referral set up.

<sup>7</sup> In one country, these sections are not the primary focus for the inspectors. OSH inspectors might check these sections in cases where specific conditions at the workplace or a similar situation indicate a need to check them.

### **3.3.1.4. Arrangements for OSH inspectors to inform REACH inspectors regarding extended SDSs/exposure scenario requirements when there are:**

#### **3.3.1.4.1 Non-compliances with language requirements**

Altogether, 23 of the 29<sup>8</sup> respondents to this question indicated that they have a system in place for OSH inspectors to inform REACH inspectors when they find non-compliant extended SDSs/ESs not written in an official language of the country where it is being used.

#### **3.3.1.4.2 Poor quality translations into an official national language**

Overall, 20 out of 29 respondents stated that OSH inspectors forward cases with poor quality translations of extended SDSs/ESs to REACH inspectors.

#### **3.3.1.5. Enforcement regarding providing access to a SDS**

In 26 responses, OSH inspectors indicated that they take enforcement action when:

a) access to the full 16 sections of a SDS is not provided in workplaces (as required by Article 8 of CAD); and

b) where workplaces provide access to relevant information from the SDS only to workers (as required under Article 35 of REACH) – with only five stating that they do not enforce in such cases.

### **3.3.2. Exposure scenario from SDSs under REACH and workplace risk assessment under OSH**

#### **3.3.2.1. Consideration of exposure scenario information during OSH controls**

OSH inspectors were asked to indicate whether they noted exposure scenario (ES) information (where available) during workplace controls. OSH inspectors in 21 countries stated that they consider ES information during controls, however, in 10 countries they do not.

Those OSH inspectors who indicated that they do consider ES checks were further requested to elaborate on the aspects of the ES checked:

- 19 of 20<sup>9</sup> respondents check that the use as described in the ES is the actual use in the workplace;
- 19 of 20<sup>10</sup> check if the risk management measures are in agreement with the measures in the workplace;
- 19 of the 21 check that the highest level of protection and prevention measures as per the hierarchy of controls<sup>11</sup> are applied;

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<sup>8</sup> In two countries, competencies are mixed and responses are therefore not as clear cut and not included for this answer.

<sup>9</sup> Although 21 countries stated that the OSH inspectors took account of the ES, one country did not respond to this part of the question.

<sup>10</sup> Although 21 countries stated that the OSH inspectors took account of the ES, one country did not respond to this part of the question.

<sup>11</sup> The hierarchy of controls is a requirement of the OSH legislation - CAD/CMD.

- 16 of 20<sup>12</sup> carry out checks on the exposure estimation<sup>13</sup>.

### **3.3.2.2. Arrangements for an exchange information between OSH and REACH inspectors on exposure scenarios and workplace risk assessments**

Out of 31 countries, 11 have a system in place to facilitate an exchange of information between OSH and REACH inspectors in relation to exposure scenario and workplace risk assessment checks. Whereas, 14 countries do not have any such system in place and six have a partial method for exchanging information.

Those countries that have systems in place, in full or partially, elaborated further on the types of information that they exchange. Most inspectors exchange information regarding:

- the use of the substance in the workplace (12);
- compliance with measures in the workplace (11);
- uses at the workplace that are not part of the ES (9);
- information on exposure estimation (7); and
- the hierarchy of control measures under CAD/ CMD (6).

### **3.3.3. Occupational exposure limit values/Derived no effect levels (OELs/DNELs)**

#### **3.3.3.1. OEL/DNEL checks**

The survey asked respondents to indicate which reference value (OEL or DNEL) is checked when an on-site inspection is carried out or when a workplace risk assessment is examined.

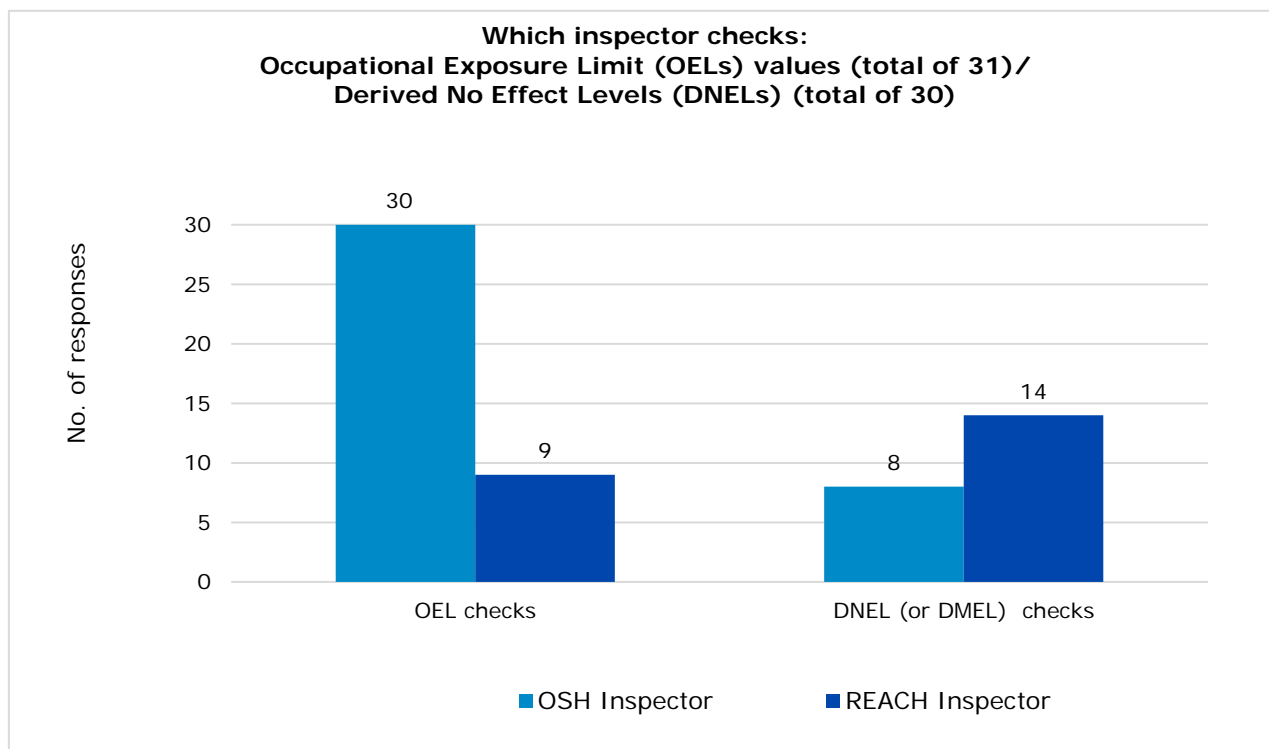
Figure 4 shows the responses.

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<sup>12</sup> Although 21 countries stated that the OSH inspectors took account of the ES, one country did not respond to this part of the question.

<sup>13</sup> Exposure estimation as required by Article 14(4) of REACH.

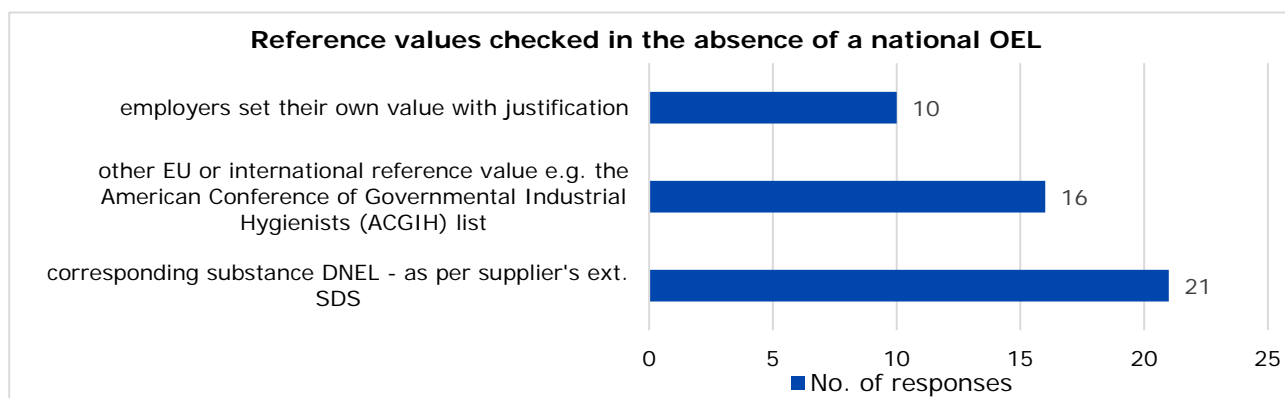
**Figure 4:** Reference values checked by inspectors when carrying out an on-site inspection or checking the workplace risk assessment



### 3.3.3.2. Reference values checked in the absence of an OEL

We requested respondents to state what reference value an employer is expected to satisfy to demonstrate that the risk from exposure is controlled in cases where no national occupational exposure limit (OEL) value exists for a hazardous substance. Responses are included in Figure 5.

**Figure 5:** Reference values checked in the absence of a national OEL





### 3.3.3.3. Enforcement of DNEL versus OEL

When asked what reference value is enforced for a workplace risk assessment when the DNEL differs from the OEL, 18 out of the 28<sup>14</sup> respondents stated that their REACH inspectors enforce the DNEL while only one country stated that their OSH inspectors enforce the DNEL in such cases. Conversely, in 29 out of 30<sup>15</sup> countries OSH inspectors and in 10 out of 28 countries REACH inspectors would enforce the OEL when it differs from the DNEL.

### 3.3.3.4. Use of SLIC guidance

The survey asked inspectors if they use the interim guidance document prepared by the Senior Labour Inspectorate Committee's CHEMEX subgroup for national labour inspectors<sup>16</sup>. Approximately half of the respondents stated that their OSH inspectors use it (15) with only 5 out of 31 REACH inspectorates indicating that they refer to the guidance.

### 3.3.4. Restrictions

The survey asked OSH inspectors to indicate whether they verify if substances restricted on Annex XVII to REACH are present in a workplace and whether they check the conditions of use. In total, 20<sup>17</sup> countries confirmed that their OSH inspectors check both the presence of restricted substances during inspections and the conditions of use. In one country, the inspectors only check the presence of the substances but not the conditions of use.

### 3.3.5. Authorisation

#### 3.3.5.1. Checking substances subject to authorisation (Annex XIV to REACH)

When checking requirements under authorisation, most countries (14 in all) stated that their REACH inspectors verify whether substances in the workplace are subject to authorisation. Checks are carried out by both REACH and OSH inspectors in close to the same number of countries (7 and 8 respectively). See Figure 6 for details.

#### 3.3.5.2. Checking supply chain of user of substance subject to authorisation

In the majority of countries (22), REACH inspectors follow up on cases where the user of a substance, which is subject to authorisation, needs to be confirmed to ensure that they are in the same supply chain as the authorisation holder. See Figure 6 for details.

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<sup>14</sup> In two countries, REACH inspectors do not enforce at the workplace as it is in the responsibility of OSH inspectors. In one country, competencies are mixed and a response is not included for this answer.

<sup>15</sup> One country did not answer question.

<sup>16</sup> Interim Guidance for National Labour Inspectors on how to use Occupational Exposure Limits (OELs), Derived No Effect Levels (DNELs) and Derived Minimal Effect Levels (DMELs) when assessing effective control of exposure to Chemicals in the Workplace [2015] Senior Labour Inspector's Committee (SLIC) SLIC WG CHEMEX.

<sup>17</sup> One country did not answer question.

### 3.3.5.3. Enforcement of conditions of use of a substance subject to authorisation (as per Article 56(2))

REACH inspectors primarily take action when enforcement is required under Article 56(2) to ensure that a substance subject to authorisation is used in accordance with the conditions of use granted. See Figure 6.

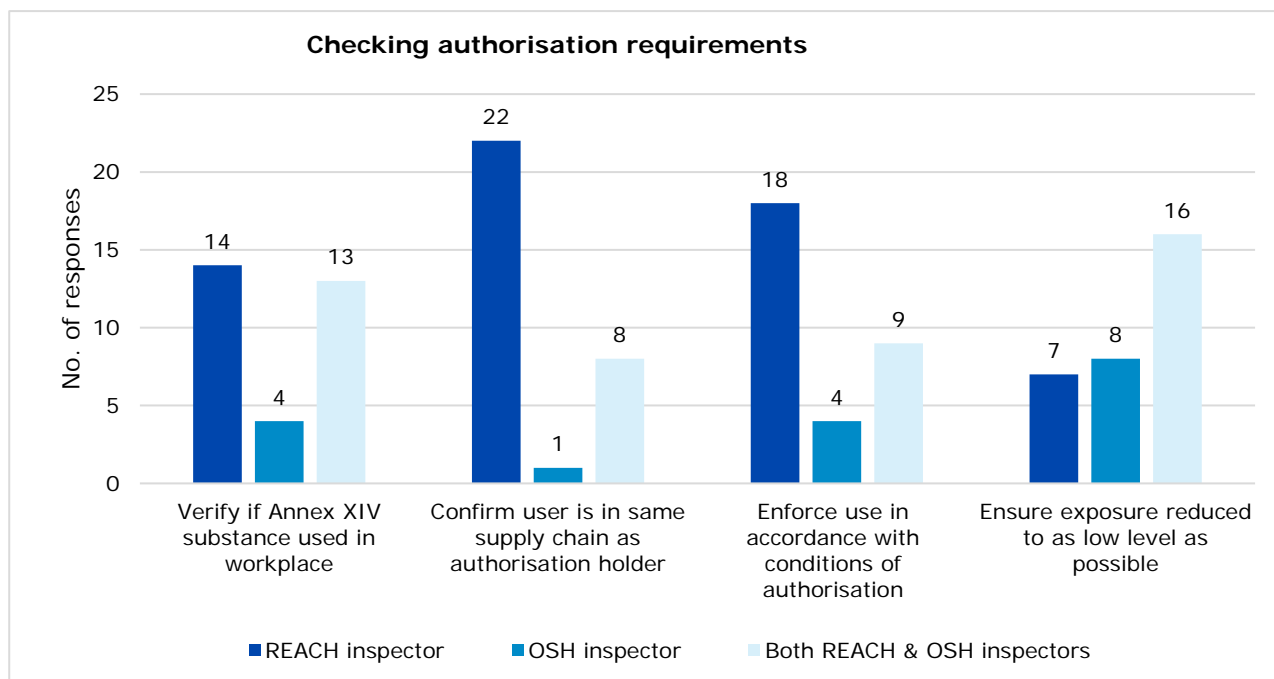
### 3.3.5.4. Ensuring exposure is as low as possible (as per Article 60(1))

From the survey results, it is clear that both REACH and OSH inspectors take on responsibility for ensuring that exposure to a substance subject to authorisation is reduced to as low a level as is technically and practically possible, with 16 respondents indicating that this is the case in their countries. See Figure 6.

### 3.3.5.5. Consideration of deviations from risk management measures as per granted decisions

16 respondents stated that their REACH inspectors would accept deviations from risk management measures as set out in the exposure scenario(s) for a substance with a granted authorisation decision, when the company being inspected has employed alternative or better controls based on considerations for reducing exposure under CAD. 15 indicated that their REACH inspectors would not.

**Figure 6:** Inspectors responsible for checking requirements under authorisation



### **3.3.6. Strictly controlled conditions (SCCs)**

#### **3.3.6.1. Awareness of requirements for intermediate substances**

The survey asked whether OSH inspectors are aware of requirements relating to the intermediate use of a substance, i.e. that SCCs apply to a use under a REACH registration for an intermediate. In all, 13 of the 30<sup>18</sup> countries who responded to this question stated that OSH inspectors are aware and 17 indicated that their inspectors are not aware.

#### **3.3.6.2. Cooperation between REACH and OSH inspectors regarding compliance with SCC conditions**

Altogether, 13 of 29<sup>19</sup> countries who responded stated that there is cooperation between REACH and OSH inspectors to ensure compliance with SCCs under REACH and OSH requirements. As such, 16 countries have not established a method of cooperation for these provisions.

#### **3.3.6.3. Participation in the Forum's coordinated REF-7 project**

OSH inspectors in only two countries are taking part in the Forum REF-7 project on registration (including checks on intermediate registrations).

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<sup>18</sup> In one Member State, enforcement of SCCs on-site (use) is the responsibility of the regional and local environmental authorities and the REACH authority enforces SCCs in relation to the registration.

<sup>19</sup> See footnote 17. Additionally, in one Member State there is cooperation but only in part of the Member State.

## 4. Overall conclusions

All 31 EU/EEA countries responded to the survey on OSH-REACH enforcement interactions to provide an understanding of how enforcement of chemicals in the workplace under REACH, CAD and CMD is carried out at a national level.

The two main aims of the survey were met. First, through completion of this report which will support the Commission in understanding how enforcement of interacting REACH and OSH provisions is coordinated throughout the EU and EEA and, second, by determining the need for actions by the Forum.

It is clear from the responses that REACH and OSH inspectors have their own spheres of responsibility with respect to the chemicals legislation covered by the survey. Nevertheless, it is also evident that in general, there is good cooperation between the relevant authorities.

As expected, there are areas of clearly **divided responsibility for enforcement** between REACH and OSH inspectors:

REACH enforcement:

- REACH inspectors (in 27 of 31 countries) predominantly enforce the provisions relating to chemical safety assessments (CSAs) versus eight countries indicating that OSH inspectors check compliance with these duties.
- The majority of respondents stated that their REACH inspectors (26 out of 31) are responsible for authorisation requirements at the workplace.
- In the majority of countries (25 out of 31), REACH inspectors enforce strictly controlled conditions (SCCs).

OSH inspectors:

- OSH inspectors in all responding countries (31 responses) enforce workplace risk-assessment provisions under CAD and CMD.
- Almost all OSH inspectors (30 responses) enforce compliance with OEL values under OSH at the workplace.

There are areas of **shared responsibility regarding compliance checking and enforcement**:

Although REACH inspectors have primary responsibility for enforcement of many of the provisions under the REACH Regulation, the survey results show that in many countries OSH inspectors are also aware of the requirements of those provisions, and consider them when checking compliance under OSH legislation.

In the majority of countries, REACH inspectors enforce provisions relating to SDSs and exposure scenarios while OSH inspectors enforce these requirements either fully or partially in approximately two-thirds of responding countries. However, the survey shows that both OSH and REACH inspectors check specific sections of the SDSs and exposure scenarios for compliance under REACH or OSH workplace checks.

In relation to checking relevant information in SDSs, OSH inspectors check information relevant to workplace risk assessments such as engineering control measures (28) and PPE (29) in Section 8 as well as the information in Sections 4, 5 and 6 (25). It is reassuring to see that OSH

inspectors check this information and that in the majority of countries (24) there are systems in place for OSH inspectors to inform REACH inspectors that information in the SDSs is not in line with workplace conditions. REACH inspectors in 24 countries have a system in place to pass similar information on to OSH inspectors.

For the most part, REACH inspectors enforce restrictions under REACH. However, OSH inspectors also contribute to the enforcement and are active in checking for the presence of restricted substances and verifying conditions of use at workplaces. Collaboration with OSH inspectors is important for restrictions with a workplace focus as well as those entries requiring compliance with exposure levels such as DNELs.

As stated above, the responses show that REACH inspectors predominantly check and enforce the provisions relating to authorisation under REACH. However, OSH inspectors contribute significantly alongside REACH inspectors in ensuring that exposure to substances subject to authorisation is controlled at workplaces. While REACH inspectors primarily check supply chains and enforce compliance with conditions of use, approximately one third of OSH inspectorates are also involved. This is encouraging to note as checking compliance with conditions set out in authorisation decisions requires expertise and knowledge of risk-management measures and control.

#### There are also **areas that require more interaction:**

The results of the survey show that checking compliance with DNEL values at the workplace is not enforced by all countries with approximately half of REACH (15) and OSH inspectors (13) stating that they are not involved in enforcing this area. In four countries, compliance with DNEL values is not addressed by either inspectorate.

When asked what reference value is checked when carrying out an on-site inspection or checking the workplace risk assessment, again the results show that less than half of REACH inspectorates (14) check the DNEL/DMEL. Collectively, 22 OSH inspectorates do not check these values at all. In contrast, 21 countries stated that if no national occupational exposure limit (OEL) exists in their country, they expect the employer to demonstrate that exposure is below the DNEL value.

This is an area where there appears to be a lack of harmonisation and an inconsistency in enforcement across countries. Although there is guidance available on how to use OELs, DNELs and DMELs when assessing exposure control at workplaces, only half of OSH inspectors take this into account and the majority (26) of REACH inspectorates do not use it.

Improvements are required by authorities to enable an exchange of information on exposure scenario (ES) information. Although 21 countries stated that their OSH inspectors take ES information into account when checking a workplace risk assessment, there is no system to share information on findings with REACH inspectors in 14 countries.

Relating to authorisation, there was a clear lack of harmonisation amongst REACH inspectors regarding acceptance of deviations from risk management measures in ESs for substances granted an authorisation for use. The responses were divided with half stating that they would accept deviations where the company employed alternative or better controls based on considerations for reducing exposure under CAD and half stating that they would not.

#### **Cooperation between authorities:**

In almost **all countries**, there are established methods of cooperation between REACH and OSH authorities (joint inspections, referral system, meetings). In all, 29 of the 31 respondents stated that cooperation is in place, one country replied that a method is not relevant as the same

inspectors cover REACH and OSH, and only one country answered that there is no cooperation formally in place. As mentioned above, in most countries there are systems in place for exchanging information between authorities regarding SDS information.

The greatest **challenges faced** are cited as:

- a lack of resources (by 25 respondents);
- different priorities for different authorities (20);
- a lack of knowledge of/competence with the other piece of legislation (20); and
- a lack of available training on REACH/OSH interactions (17).

**Good practices** reported by respondents include:

- joint inspections;
- training on REACH/OSH interactions;
- regular meetings between the two inspectorates; and
- mentoring between REACH/OSH inspectors.

The findings from this survey show that there are many positive interactions between REACH and OSH inspectors already in existence, and there are established methods of cooperation in place, which allow both inspectorates to address safe use. There are still some improvements to be made in certain areas such as increasing knowledge on DNELs/DMELs and exposure scenario checks. There is also scope for more engagement between REACH and OSH inspectors in checking compliance requirements under authorisation.

Further developments, as outlined in the Recommendations section should help further strengthen interactions and collaboration between both inspectorates.

## 5. Recommendations

These recommendations are based on the results of the feedback from the questionnaires completed by the Forum members.

### 5.1. Recommendations to the Forum

- Continue improving cooperation with SLIC CHEMEX and ensure that both the Forum and SLIC CHEMEX exchange information on upcoming projects and feed into where inspectors can work jointly.
- Based on the high number of responses stating that there is a lack of knowledge on legislation covered by the other relevant authority or competence to check compliance on the legislation covered by the other authority (in 20 participating countries), the Forum is asked to consider organising training that will cover REACH-OSH enforcement interactions in the future.
- The Forum should consider including joint REACH/OSH topics in future projects (for example, during the upcoming project on authorisation, future projects on SDS/ES compliance), thereby promoting cooperation and joint inspections between the responsible authorities at national level.
- Develop a guidance document on procedures for checking compliance with relevant duties under REACH which are also relevant to OSH legislation (CAD and CMD), i.e. restrictions, authorisation and strictly controlled conditions (SCCs), to enable REACH and OSH inspectors to perform uniform compliance checks across all countries.
- For REACH and OSH authorities to understand the role of DNEL values in achieving adequate controls at workplaces and to pass their knowledge onto employers, the Forum should consider developing guidance on why DNELs are derived, their application in practice and their usefulness in safety management systems.
- There is an apparent divide in the responses of REACH authorities regarding acceptance of deviations from risk management measures (RMMs) as set out in exposure scenarios (ESs) for a substance subject to authorisation, where a company has employed alternative or better controls based on considerations for reducing exposure under CAD. Based on the lack of a consistent approach across national authorities, the WG recommends that the Forum considers developing a clear, short guide on the approach to take regarding compliance with the requirements of authorisation and acceptable measures to reduce exposure.
- Consider collaboration with the Advisory Committee for Safety and Health at Work (ACSH), which assists the Commission in preparing, implementing and evaluating activities in the field of OSH and facilitates cooperation between national administrations, trade unions and employers' organisations. The role of ACSH includes providing opinions on EU initiatives in the area of OSH and contributing to OSH policy priorities. The Forum should consider establishing communication with ACSH and its relevant Working Parties for an exchange of views and discussions on areas of potential future cooperation.
- The Forum should consider repeating this survey in e.g. five year's time to check if cooperation between REACH and OSH has changed.

## 5.2. Recommendation to enforcement authorities and inspectors (REACH and OSH)

- All countries are encouraged to put in place a referral system for exchanging information between REACH and OSH authorities to aid good communication and cooperation.
- REACH and OSH authorities are asked to consider exploring, where relevant, the possibility of joint REACH-OSH inspections at workplaces dealing with chemicals, enabling upskilling of inspectors and allowing REACH and OSH inspectors to benefit from the other inspectors' experience.
- Based on the findings from the survey, REACH inspectors predominantly (in 27 of the 31 countries) enforce the provisions relating to chemical safety assessments (CSAs). Meanwhile, only eight OSH inspectors partake in enforcement. The REACH enforcement authorities should consider actions to increase awareness amongst OSH inspectors on the usefulness of safe use information in CSAs for checking OSH-related duties.
- Based on the findings there were mixed responses regarding enforcement and checking of DNEL values at the workplace. REACH inspectors do not enforce compliance with DNEL values at the workplace in 15 countries and OSH inspectors do not enforce in 13 countries. Enforcement authorities should explain to duty holders what is expected of them to ensure adequate control is achieved in the workplace and explaining how values are applied in practice.
- To improve interactions between REACH and OSH inspectors in checking compliance with conditions set out in authorisation decisions, REACH national enforcement authorities are encouraged to organise training at a national level on authorisation requirements and involve their OSH colleagues in joint inspections/projects such as REF-9.
- REACH and OSH authorities should strive to further strengthen and streamline their methods of cooperation and communication at a national level through joint inspections, regular meetings between authorities and joint training sessions where relevant.
- National enforcement authorities are encouraged to consider participation in programmes for the exchange of enforcement inspectors in the areas of REACH and CLP funded by the Commission.

## 5.3. Recommendations to the Commission

- Given the divergent answers in the survey concerning enforcement and compliance checking of DNELs, the Forum suggests that COM could promote the guidance (SLIC Guidance<sup>20</sup> and ECHA Guidance<sup>21</sup>) that is available on this issue.
- Supporting future training, which will cover REACH-OSH enforcement interactions through funding, would be beneficial for authorities.
- Continued funding of inspector exchange programmes<sup>22</sup> would benefit in improving OSH-REACH cooperation.

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<sup>20</sup> Interim Guidance for National Labour Inspectors on how to use Occupational Exposure Limits (OELs), Derived No Effect Levels (DNELs) and Derived Minimal Effect Levels (DMELs) when assessing effective control of exposure to Chemicals in the Workplace [2015] Senior Labour Inspector's Committee (SLIC) SLIC WG CHEMEX.

<sup>21</sup> Guidance on information requirements and chemical safety assessment. Appendix to Chapter R.8: [Guidance for preparing a scientific report for health-based exposure limits at the workplace](#). Version 1.0. [August 2019] ECHA.

<sup>22</sup> Programme for the exchange of enforcement inspectors in the areas of REACH and CLP (currently funded by DG GROW).



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- Consider the possibility of development of an IT platform with relevant information for REACH and OSH aspects on the use of chemicals, which would be beneficial for authorities. Such a platform should include a database of hazardous chemicals with national OELs/IOELVs and DNELs/DMELs available. It could also facilitate sharing of knowledge between inspectorates.

## **6. List of annexes**

Annex 1: Survey on OSH-REACH enforcement interactions.

Annex 2: References

## Annex 1: Survey on OSH-REACH enforcement interactions

QUESTIONNAIRE		
<b>Section I – General Questions</b>		
<b>1. Participating country (EU and EEA)</b>		
1.1. Name of the participating country:		
1.2. Name(s) of the contributing REACH Authority(ies):		
1.3. Name(s) of the contributing OSH Authority(ies):		
1.4. e-mail of the person who has compiled the questionnaire <sup>23</sup> :		
<b>Section II – Distribution of responsibilities and cooperation between REACH and OSH inspectors</b>		
<b>2. Who has the responsibility for enforcement of these requirements in your country?</b> (please note if the answer is “partially” to any part of this question please elaborate further in the final box)		
What duty	REACH Inspector	OSH Inspector
2.1. Chemical Safety Assessment under REACH	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Partially	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Partially
2.2. Workplace Risk Assessment under OSH for chemicals	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
2.3. Safety Data Sheet and Exposure Scenario under REACH	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Partially	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Partially
2.4. Complying with Occupational Exposure Limit (OEL) values (EU or national ones) under OSH at the workplace	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
2.5. Complying with Derived No-Effect Limit (DNEL) values under REACH at the workplace	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Partially	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Partially
2.6. Authorisation under REACH at the workplace	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
2.7. Restrictions under REACH at the workplace	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Partially	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Partially
2.8. Strictly controlled conditions for intermediate substance registrations under REACH <sup>24</sup>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Partially	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Partially
If you ticked <b>partially</b> <sup>25</sup> in any of the above questions, please elaborate here in more detail		

<sup>23</sup> Only to be used if any additional information or further clarification is needed

<sup>24</sup> An intermediate is defined as a substance manufactured for and consumed in or used for chemical processing in order to be transformed into another substance. When substances used as intermediates are manufactured, transported and used under strictly controlled conditions REACH allows for a reduction in the information requirements for their registration.

<sup>25</sup> Partially applies for example where OSH inspectors are responsible for enforcing REACH restrictions related to workplace activities, e.g. REACH Annex XVII entry 71 on NMP, and REACH inspectors enforce entries concerning placing on the market, e.g. REACH Annex XVII entries 29-31 on CMRs.

**3. Is there an established method of cooperation between REACH and OSH authorities within your Member State?**

- ☐ Yes  
☐ No  
☐ Not relevant (as REACH and OSH are covered by the same inspectors)

**3.1. If yes, what kind:**

- ☐ Joint inspections (REACH and OSH inspectors)  
☐ Memorandum of understanding between REACH/OSH authorities  
☐ Meetings between REACH and OSH enforcement authorities  
☐ Referral system

**3.1.1. If yes, what kind of referral system:**

- ☐ REACH inspectors to refer cases to OSH inspectors  
☐ OSH inspectors to refer cases to REACH inspectors  
☐ Other (please specify)

**4. What challenges do inspectors face at national level when dealing with REACH/OSH requirements that interact with one another?**

- ☐ No challenges  
☐ Lack of cooperation between authorities  
☐ Lack of clarity between responsibilities of the REACH/OSH authorities  
☐ Some REACH and OSH requirements may be divergent  
☐ Differing priorities for the different authorities  
☐ Lack of knowledge/competence of the other piece of legislation (REACH or OSH)  
☐ Lack of availability of training on REACH/OSH interactions  
☐ Lack of national guidance documents on REACH/OSH interactions  
☐ Lack of a referral system  
☐ Lack of resources (e.g. lack of inspectors or time)  
☐ Other (please specify)

Please elaborate on any of the above challenges you have ticked

**5. Do you have examples of good practices for cooperation between REACH/OSH inspectors in your country?** (please tick any that are relevant and add additional practices

and comment in the free text on the effectiveness of the practices)

- ☐ No examples  
☐ Joint inspections  
☐ Inspection manuals  
☐ Trainings on REACH/OSH interactions  
☐ Mentoring between REACH/OSH inspectors  
☐ Control checklists considering overlaps of REACH/OSH  
☐ IT platform shared by OSH and REACH inspectors  
☐ Regular/coordination meetings between REACH and OSH inspectors  
☐ Other (further examples and comment on the effectiveness of practices)

**6. Please provide any other suggestions you may have for overcoming the challenges related to REACH/OSH interactions and improving cooperation between REACH/OSH Authorities at the national level.**

**Section III - Questions on specific REACH and OSH duties** (please refer to Annex I for further information on each of these duties listed in Q7-12)

**7. Safety Data Sheet (SDS) checks under REACH and workplace risk assessment under OSH**

7.1. Which aspects of the SDS do you check? (please reply for each of the questions below in 7.1.1 – 7.1.4)			
SDS aspects	REACH Inspector	OSH Inspector	REACH and OSH obligations
7.1.1. Classification of chemical in Section 2	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<u>REACH duty:</u> Art. 31 - provide SDS, according to Annex II <u>OSH duty:</u> CAD: Art. 4: Review/update risk assessment
7.1.2. Engineering control measures in Section 8	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<u>REACH duty:</u> Art. 31 - provide SDS, according to Annex II <u>OSH duty:</u> CAD: Art. 5: identify control measures and Art. 6: apply them
7.1.3. Appropriateness of the PPE provided in Section 8	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<u>REACH duty:</u> Art. 31 - provide SDS, according to Annex II <u>OSH duty:</u> CAD: Art. 5 and 6 CMD: Art. 7(2.b), Art. 8 (2 <sup>nd</sup> paragraph), Art. 10(1.b) and Art. 11(1.d)
7.1.4. First aid/emergency measures in Sections 4, 5, 6	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<u>REACH duty:</u> Art. 31 - provide SDS, according to Annex II <u>OSH duty:</u> CAD: Art. 7: Emergency measures
<b>7.2.</b> Where the <u>OSH inspector</u> is aware that the conditions (including control measures) onsite at the workplace do not match those provided in the SDS,  are there systems in place for the <u>OSH inspector</u> to inform the REACH inspector that the workplace risk assessment and the SDS are not in line ?  <input type="radio"/> Yes <input type="radio"/> No			<u>REACH duty:</u> Art. 31 - provide SDS, according to Annex II <u>OSH duty:</u> CAD: Art. 4 - Review/update risk assessment
<b>7.3.</b> Where the <u>REACH inspector</u> is aware that the conditions (including control measures) set out in the SDS do not match those in place at the workplace,  are there systems in place for the <u>REACH inspector</u> to inform the OSH inspector that that the workplace risk assessment and the SDS are not in line ?  <input type="radio"/> Yes <input type="radio"/> No			
<b>7.4.</b> Are there systems/arrangements in place for <u>OSH inspectors</u> to inform REACH inspectors when (extended) SDSs and exposure scenarios:  <b>7.4.1.</b> Are not written in the official language of the Member State			<u>REACH duty:</u> Art. 31 - provide SDS, according to Annex II of REACH <u>OSH duty:</u> CAD: Art. 4 - Perform/Review/

<p>O Yes O No</p> <p><b>7.4.2.</b> Are of poor quality translation, i.e. not fully or correctly translated into an official national language</p> <p>O Yes O No</p>	<p>update workplace (chemical) risk assessment</p>
<p><b>7.5.</b> Where a full SDS (16 Sections) is not made available to workers (as required by Art. 8 CAD) because the employer has provided only relevant information from the SDS (as per requirements under Art. 35 of REACH), do <u>OSH inspectors</u> enforce the lack of providing access to the full SDS?</p> <p>O Yes O No</p>	<p><u>REACH duty:</u> Provide workers with access to SDS info (Art. 35) Articles 31 and 32. <u>OSH duty:</u> CAD: Art. 8 - Provide information and training to workers - provide access to any SDS CMD: Art. 11 – Information and training of workers CMD: Art. 12 —Information for workers</p>

<b>8. Exposure scenario from SDS under REACH and workplace risk assessment under OSH</b>	
<p><b>8.1.</b> Do <u>OSH inspectors</u> take into consideration the exposure scenario where available when controlling a workplace (chemical) risk assessment?</p> <p>O Yes O No</p> <p><b>8.1.1.</b> If <b>yes</b>, what aspects of the extended safety data sheet are checked?</p> <p>a) if the described use is in agreement with the use in the workplace O Yes O No</p> <p>b) if the risk management measures are in agreement with the measures in workplace O Yes O No</p> <p>c) whether the highest level of protection and prevention measures as per the hierarchy of control are applied. O Yes O No</p> <p>d) the exposure estimation (if provided in the exposure scenario) O Yes O No</p> <p><b>8.2.</b> Are there systems/arrangements in place for an exchange of information on exposure scenarios and risk assessment between the OSH and the REACH inspectors?</p> <p>O Yes O No O Partially</p> <p><b>8.2.1.</b> If yes or partially, they are related to:</p> <p><input type="checkbox"/> the use of the substance in the workplace <input type="checkbox"/> compliance with measures in workplace</p>	<p><u>REACH duty:</u> Art. 31 - provide SDS, according to Annex II, receive SDS Art. 37.5 <u>OSH duty:</u> CAD: Art. 4 - Perform/Review/ update risk assessment CMD: Art. 3 – Scope – determination and assessment of risks CMD: Art. 5 – Prevention and reduction of exposure</p>

<input type="checkbox"/> the hierarchy of control measures under CAD/CMD <input type="checkbox"/> exposure estimation <input type="checkbox"/> uses at the workplace not considered in the SDS's exposure scenarios <input type="checkbox"/> other (please specify)	
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9. OEL/DNELs			
9.1. What reference value is checked when carrying out an on-site inspection or checking the workplace risk assessment? (please reply for each of the questions below in 9.1.1 – 9.1.2)			
Reference value	REACH Inspector	OSH Inspector	
9.1.1. DNEL/DMEL	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<u>REACH duty:</u>  Art. 37(5), 38(1), Art. 6 – Apply/Implement control measures  <u>OSH duty:</u> CAD: Art. 4 - Perform/Review/update risk assessment. Risk assessment should be regularly reviewed. CMD: Art. 16 – Limit values
9.1.2. OEL	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
9.2. If no national occupational exposure limit (OEL) exists in your country for a hazardous substance, what reference value do you expect the employer to satisfy to demonstrate risk from exposure is controlled?  <input type="checkbox"/> the employers set their own value with justification, <input type="checkbox"/> the corresponding substance DNEL – as given in the supplier's extended SDS, <input type="checkbox"/> some other European, or international directory of reference values e.g. ACGIH list			
9.3. When the DNEL is different than the OEL, which reference value do you enforce for the workplace (chemical) risk assessment? a) REACH inspectors: <input type="radio"/> DNEL <input type="radio"/> OEL b) OSH inspectors: <input type="radio"/> DNEL <input type="radio"/> OEL			
9.4. Do you use the interim guidance <sup>26</sup> (SLIC CHEMEX WG guidance) for national labour inspectors on how to use occupational exposure limits...? a) <u>REACH inspectors</u> use it: <input type="radio"/> Yes <input type="radio"/> No b) <u>OSH inspectors</u> use it: <input type="radio"/> Yes <input type="radio"/> No			

<sup>26</sup> Interim Guidance for National Labour Inspectors on how to use Occupational Exposure Limits (OELs), Derived No Effect Levels (DNELs) and Derived Minimal Effect Levels (DMELs) when assessing effective control of exposure to Chemicals in the workplace

<b>10. Restrictions</b>	
<p><b>10.1.</b> Do <u>OSH inspectors</u> verify if the substances present on site are in the list of restricted substances (Annex XVII) under REACH?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><b>10.2.</b> Do <u>OSH inspectors</u> verify when a substance has a restriction on its use(s), if the conditions are being followed by the employer?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	<p><u>REACH duty:</u> Art. 67(1) - Restriction according to Annex XVII</p> <p><u>OSH duty:</u> CAD: Art. 4 - Review/update risk assessment</p>
<b>11. Authorisation</b>	
<p><b>11.1.</b> Which <u>inspector</u> has responsibility to verify if substances used in the workplace are in the list of authorised (Annex XIV) substances under REACH?</p> <p><input type="radio"/> REACH Inspector</p> <p><input type="radio"/> OSH Inspector</p> <p><input type="radio"/> Both</p>	<p><u>REACH duty:</u> Art. 56 - Authorisation according to Annex XIV</p> <p><u>OSH duty:</u> CAD Art. 4 - Review/update risk assessment</p>
<p><b>11.2.</b> Which <u>inspectors</u> would follow-up a case of use of substance on REACH Annex XIV to confirm that the user is actually in the supply chain of the authorisation holder?</p> <p><input type="radio"/> REACH Inspector</p> <p><input type="radio"/> OSH Inspector</p> <p><input type="radio"/> Both</p> <p><b>11.3.</b> Which <u>inspectors</u> in your country would enforce the upholding of the requirements of REACH Art. 56(2), ensuring that a substance subject to authorisation is used in accordance with conditions of an authorisation for a use?</p> <p><input type="radio"/> REACH Inspector</p> <p><input type="radio"/> OSH Inspector</p> <p><input type="radio"/> Both</p>	<p><u>REACH duty:</u> Art. 56 (2): downstream user use of a substance in line with granted authorisation</p> <p><u>OSH duty:</u> CAD: Art. 5 - Identify control measures and CAD: Art. 6 - Apply protection and prevention measures</p>
<p><b>11.4.</b> Which inspector would have the responsibility to make sure that the exposure to a substance subject to authorisation is reduced to as low level as is technically and practically possible (as per the requirements of Art 60(1))?</p> <p><input type="radio"/> REACH inspector</p> <p><input type="radio"/> OSH inspector</p> <p><input type="radio"/> Both</p> <p><b>11.5.</b> Would <u>REACH inspectors</u> accept deviations from the risk management measures (RMM) as set out in the exposure scenarios (ES) for a substance subject to authorisation (application granted) where a company has employed alternative or better controls based on considerations for reducing exposure under CAD?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	<p><u>REACH duty:</u> Art. 60(10): Notwithstanding any conditions of an authorisation, the holder shall ensure that the exposure is reduced to as low a level as is technically and practically possible.</p> <p><u>OSH duty:</u> CAD: Art. 6(1) - Duty to ensure that the risk from hazardous chemical agents is eliminated or reduced to a minimum</p>



12. Strictly controlled conditions (SCC) <sup>3</sup>	
<p><b>12.1.</b> Are <u>OSH inspectors</u> in your country aware of the requirements relating to the intermediate use of a substance, i.e. that SCCs apply to a use under an REACH registration for an intermediate?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><b>12.2.</b> Is there cooperation between REACH and OSH inspectors to ensure that the SCCs are complied with under REACH and the conditions for OSH are implemented on-site?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><b>12.3.</b> Are <u>OSH inspectors</u> in your country taking part in the Forum REF-7 project on registration (including intermediate registrations)?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p>	<p><u>REACH duty:</u></p> <p>Art. 17 or 18 (intermediate registration - onsite or transported)</p> <p><u>OSH duty:</u></p> <p>CAD: Art. 5 - Observe general principles for prevention of risks</p>

## Annex 2: References

1. Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) [2007] OJ L131/11.
2. Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) [2004] OJ L229/23.
3. Guidance for National Labour Inspectors on the interaction of the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation (REACH) (Regulation (EC) No. 1907/2006), the Chemical Agents Directive (CAD) and the Carcinogens and Mutagens Directive (CMD) [2013] Senior Labour Inspector's Committee (SLIC) Employment Social Affairs and Inclusion
4. Interim Guidance for National Labour Inspectors on how to use Occupational Exposure Limits (OELs), Derived No Effect Levels (DNELs) and Derived Minimal Effect Levels (DMELs) when assessing effective control of exposure to Chemicals in the Workplace [2015] Senior Labour Inspector's Committee (SLIC) SLIC WG CHEMEX
5. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) [2006] OJ L396/30

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