

2021 Joint Forum-BPRS OPEN SESSION

OS 2.2 Projects and related
activities finalised during 2021

OS 2.2.1 REF-8

Enforcement of CLP, REACH and
BPR duties related to
substances, mixtures and
articles sold on-line

10 November 2021

Karin Rumar – WG Chair

Content

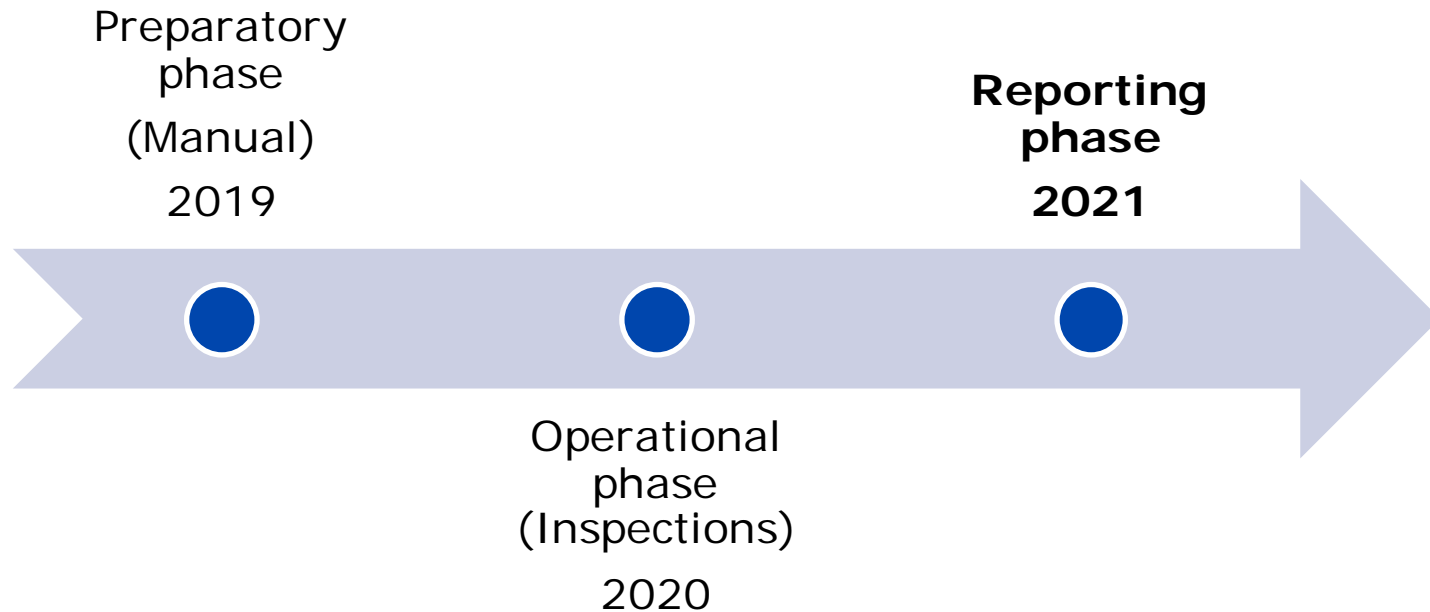
- Background
- Timeline
- Obligations checked
- Target companies
- Results
- Recommendations



Background

- Increase over the years of online sales of mixtures classified as hazardous
- National enforcement authorities (NEAs) experienced that information on hazards was regularly lacking on websites offering hazardous substances or mixtures
- EU cooperation in enforcing online sales was essential for this project as customers of one website can be based in any of the Member States
- The available results of the Forum's past e-commerce project showed frequent non-compliance of chemicals sold online (non-compliance rate of 82 %)
- In previous Forum projects (REF-4, Pilot on customs) restrictions were investigated and RAPEX (Safety Gate) has indicated continued non-compliance with some entries

Timeline



Obligations checked

The obligations that were checked in this project were related to:

- REACH Annex XVII Restrictions
- REACH Article 31(1)(3)(5) - whether an SDS was supplied/available and in an official language of the receiving Member State (the content was not checked)
- CLP Articles 48 and 17 (optional)
- BPR Articles 3(1), 17(1), 72(1)(3) and 89

Target companies

- Web shops* and marketplaces who sell online hazardous substances, mixtures, biocidal products and articles subject to REACH, CLP and/or BP Regulations requirements (private sellers excluded)
- Companies situated within the enforcement authority's own country, within the EU or outside the EU

** All websites that directly sell goods online. The definition excludes marketplaces that do not directly sell a product*

Results

- 29 countries (including Switzerland on BPR)
- 5730 products checked
- Many Member States performed risk-based approach when selecting the products (not a study of the market)
 - Focus on non-compliances
 - Results in high non-compliance figures
- **Overall non-compliance rate***
 - 78% REACH Restrictions
 - 5% REACH Article 31(1)(3)/(5)
 - 75% CLP Article 48
 - 77% BPR

* Multiple violations for the same product was possible

No-compliances found in Marketplaces and web shops

Non-compliance	
1. Marketplace (e.g. eBay, AliExpress, Amazon)	95 %
2. Web shop	65 %

Non-compliances found in marketplaces with and without a legal entity in the EU



REACH - Restrictions

Non-compliance with Restrictions: the main non-compliances were found for:

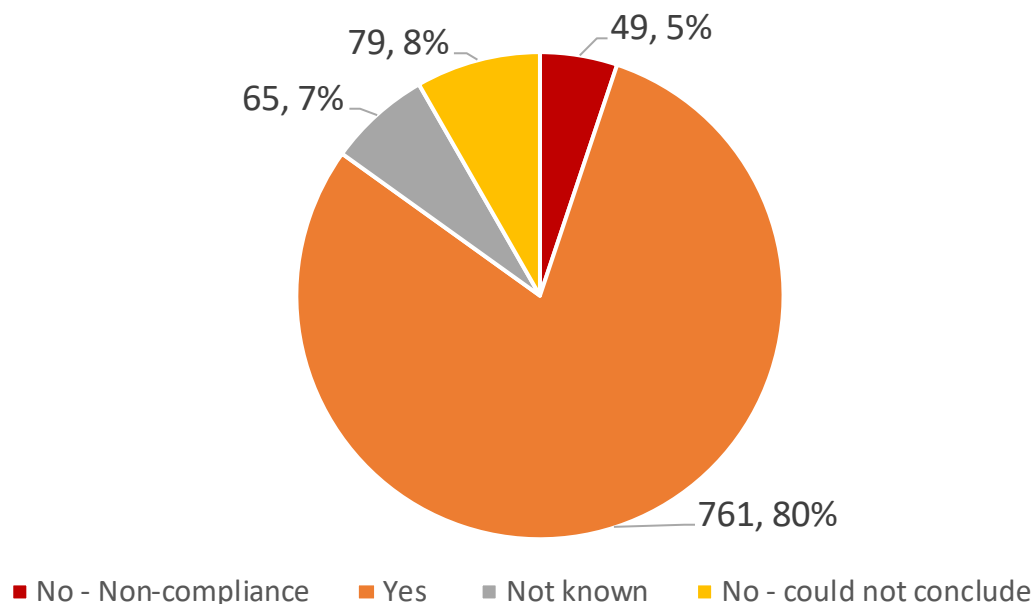
- **Entry 28-30: CMR substances** (mostly regarding lead solders for welding needs (tin solder, solder bars, solder balls)) – 99%
- **Entry 23: Cadmium**
 - 23.1 Plastic material - 33%
 - 23.10. Jewellery - 23%
- **Entry 51 phthalates (DEHP, DBP, BBP, DIBP)** - 15%

Comparisons of non-compliance for restrictions on substance/mixtures and articles

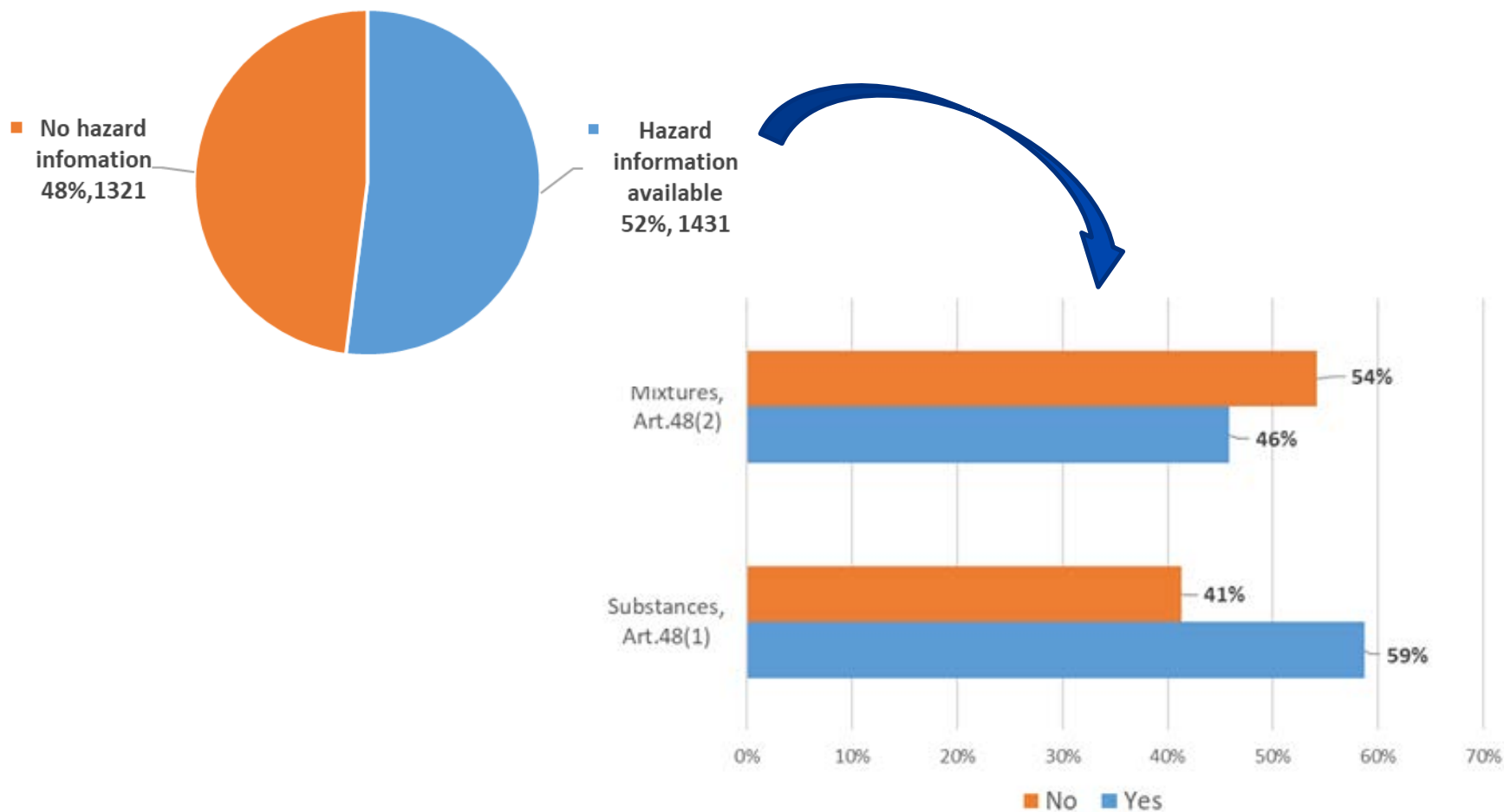
	Number of checked products - restrictions	Number of non-compliances - restrictions	% non-compliances - restrictions
Substance /Mixture	1 974	1 876	95 %
Article	655	164	25 %

REACH Article 31(1), (3) and (5)

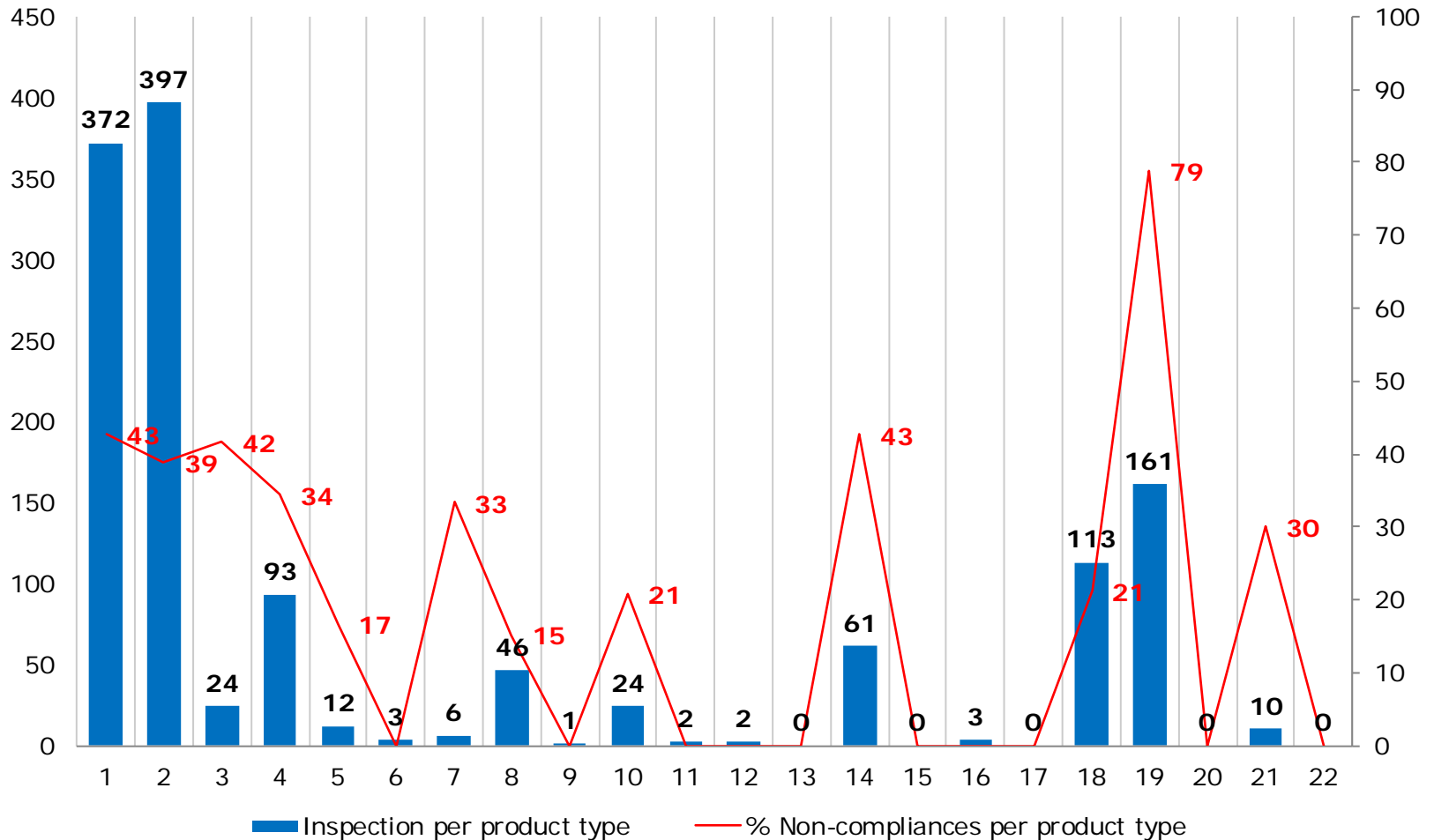
Availability/Supply of SDS in the language of the Member State



CLP Article 48



BPR Articles 17 and 89



Most Common Active Substances

Number	Name	CAS number	Number of inspected products
1	Ethanol	64-17-5	346
2	Geraniol	106-24-1	100
3	Alkyl (C12-16) <u>dimethylbenzyl ammonium chloride (ADBAC/BKC (C12-16))</u>	68424-85-1	95

Most common not allowed “Active Substances”

Number	Name of “active substance”	CAS number	Status	Number of inspected products
1	Citronella Ceylon	8000-29-1	No defined active substance	24
2	Glycerol	56-81-5	No defined active substance	7
3	Active chlorine released from hypochlorous acid	7782-50-5	New AS, not in review programme	4

Enforcement measures

In case of non-compliance:

- 59% written advice. 11% no enforcement action initiated.
- 53% of the products/offers were removed from the website (for restricted and biocidal products),
- 23% the information in the advertisement were brought in compliance
- In 80% of the non-compliant products, there were no sanctions applied => National legislation on sanctions

Main recommendations

- **For COM**

- Make marketplaces responsible and liable for enforcement of illegal products/offers, especially from sellers outside the EU
- Harmonise and strengthen the regulation of online commerce across the EU

- **For Member States/NEAs**

- Continue perform inspection of hazardous products sold online
- Awareness raising campaigns targetting web shops and marketplaces and other involved stakeholders selling in the country

Main recommendations

Marketplaces/Webshops

- Marketplaces to join and sign the EU product safety pledge and keep reporting the indicators
- Request more information about sellers and their products, and ensure they satisfy legal requirements before making them available online
- Get familiar with the EU/national legislation for consumer products when setting up a website for online sales
- Proactive approach, especially for restricted articles and to the sale of biocidal products that are restricted to trained professional or professional use products, for instance, rodenticides

Main recommendations

For industry and trade associations

- Develop common strategies to clarify what is a lawful sale on the internet
- Raise awareness of the legal duties included in this project
- Compliance officers within companies should be aware of registration requirements within Member States and the different obligations resulting from transitional measures and national and Union authorisations

Future

- Publication REF-8 report – Dec 2021
- Follow-up: Workshop with interested ASO's - Spring 2022

Thank you!

Any questions?

