ECHA
EUROPEAN CHEMICALS AGENCY

FORUM

Report on the pilot project on cooperation with customs in enforcement of REACH restrictions and CLP labelling

Operational Phase: March–November 2019

Version 1.1

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This report presents the results of inspections made under the Forum enforcement project. Duty holders and substances selected for checks were those that were relevant for the scope of the project. The project was not designed as a study of the market of the European Economic Area (EEA). The number of inspections for individual countries varied. Accordingly, the results presented in the report are not necessarily representative of the situation in the internal market of the EEA as a whole.

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1.0	24/09/2020	First edition
1.1	25/09/2020	Correction in the conclusions chapter of the percentage of CLP products not released by customs for free circulation, in line with table 24 of the report

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Glossary

AC	Article category
B2B	Business-to-business imports
B2C	Business-to-consumer imports (private imports)
CLP or CLP Regulation	Regulation (EC) No 1272/2008 on Classification, Labelling and Packaging of Substances and Mixtures
CN	Combined nomenclature - a tool for classifying goods, set up to meet the requirements of the Common Customs Tariff and the EU's external and intra-EU trade statistics. It is a further development (with special EU-specific subdivisions) of the World Customs Organization's Harmonized System (**HS**) nomenclature
DPD	Dangerous Preparations Directive - Directive 1999/45/EC of the European Parliament and of the Council concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations
DSD	Dangerous Substances Directive - Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances
ECHA	European Chemicals Agency
EAN	European article number - a standard describing a barcode symbology and numbering system used in global trade to identify a specific retail product type, in a specific packaging configuration, from a specific manufacturer
EEA	European Economic Area
Forum	The Forum for Exchange of Information on Enforcement: Network of authorities responsible for the enforcement of the REACH, CLP, PIC, POPs and Biocidal Products regulations in the EU, Norway, Iceland and Liechtenstein
GLP	Good laboratory practice
HS	Harmonized system of the World Customs Organisation
ICSMS	The internet-supported information and communication system for the pan-European market surveillance
MS	Member State(s) of the EU
NEAs	National enforcement authorities
PARCS	PARCS Expert Group - Coordination of activities on the protection of health, cultural heritage, the environment and nature
PC	Product category as described in the ECHA Guidance on information requirements and Chemical Safety Assessment, chapter R12 Use descriptors (p. 45)
PD-NEA	Portal dashboard for national enforcement authorities – the IT system that gives access to data submitted to ECHA to enforcement authorities – PD-NEA was changed to the Interact Portal on 25 April 2019
Product	Throughout the project the term «product» is used as a general term covering the inspected substance, mixture or article and is also used in EU market surveillance legislation
PVC	Polyvinyl chloride
RAPEX	Rapid Exchange of Information System - rapid alert system for dangerous non-food products
REACH or REACH	Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals

Regulation	
REF	REACH-EN-FORCE, coordinated enforcement project of the Forum
SDS	Safety data sheet
WG	Working group of the Forum
XRF	X-ray fluorescence

I. Executive summary

Under this pilot project, cooperation with the customs authorities for better enforcement of the REACH and CLP regulations has been examined. Selected controls were performed on products before they enter the European Single Market. These products were mostly:

(a) articles for which the presence of a substance restricted by REACH Annex XVII was checked, for example jewellery and other metal and plastic articles; and

(b) mixtures, for which the classification and packaging requirements were examined.

The primary scope of this project was to check the compliance of imported goods during the time when they were still under customs supervision and to prohibit the entrance of non-compliant products to the European market.

This was carried out through sampling and analysis of various products which fall under the provisions of three REACH restrictions for certain articles and jewellery (entries 23, 27 and 63 of Annex XVII) and by checking the CLP labelling and packaging of substances and mixtures. Each participating country could also choose other restriction entries which were relevant to their national priorities and market situation.

Regarding CLP labelling, one scope of the project was to carry out the following “simple” checks on imported hazardous chemicals: presence of CLP labelling, firm affixation of the label to the package, presence of CLP pictograms and a check that they were not the old pictograms (DSD or DPD), and lack of leaking of the package. Each participating country could also check any other CLP labelling and packaging elements.

Controls took place at entrance points to the EEA, for example at harbours, airports or land borders but also covered cases where the goods were declared for free circulation at inland customs offices. 17 Member States (MSs) participated in the project[1] but 16 MSs reported results.

The project mainly covered commercial imports (B2B). Private imports (B2C) could be targeted but were not the priority of this project.

Analysis of the various ways of cooperation (models) between the national enforcement authorities (NEAs) and the customs authorities in the participating MSs has revealed that the most common model of cooperation (see Table 1) used during this pilot project was where joint checks are performed by customs and NEA inspectors (model 1.d). The second most frequent model was where customs asked NEAs to assess REACH/CLP compliance for shipments identified through NEA risk analysis (model 1.b). Most of the non-compliances were also identified by these models.

1. Content and key findings

The 16 reporting MSs did 1 389 inspections of products. 321 products were detected by the NEAs or customs inspectors as non-compliant (23 %).

[1] AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HU, IT, LT, LU, PL, SE

The checked products originated from 37 different countries but the majority (71 %) of all products came from China. The majority of all non-compliant products were also from China.

A total of 1 225 products were checked for the presence of restricted substances under Article 67(1) of REACH, with their cadmium content the most often controlled. 1 014 products were checked by NEAs, 211 products by customs and nine products were checked with a common responsibility of customs and NEAs. More than 1 000 of the products checked were jewelleries and metal articles, followed by a small number of plastic and leather articles. Besides the restrictions applicable for cadmium, lead and nickel, checks for other restrictions were also reported like, for example for asbestos in thermos flasks.

The overall **non-compliance rate for restrictions was 17 %**. Most of the non-compliances were related to the cadmium restriction (14 %). Comparing the results of this pilot project with the REF-4 project, it is observed that the level of non-compliance with the restrictions remains the same three years after (REF 4, non-compliance with restrictions 18 %).

Like in REF-4, all the restricted heavy metals (nickel, cadmium and lead) were detected in jewellery. In this project there was a 16 % non-compliance rate for cadmium, 8 % for lead and 5 % for nickel. The corresponding non-compliance rates from REF-4 are very similar: 12 % non-compliance rate for cadmium, 7 % for lead and 8 % for nickel.

However, contrary to REF-4, no non-compliances for asbestos were detected in the current project. This can probably be attributed to the fact that asbestos was mostly detected in second-hand items in REF-4, while in the current project only new thermoses were checked. The non-compliance rate for Chromium(VI) in leather items was 17 % and in REF-4 it was 13 %. Hence, perhaps more targeted enforcement actions on this specific restriction are needed. The majority of inspections for restrictions were conducted with chemical analysis or screening and only a small part of them with documents.

17 % of customs checks and 4 % of the NEA's checks were carried out on the basis of documents, for example, test reports, declarations of conformity or certificates provided by the companies. All checks with a common responsibility of customs and NEAs were performed by chemical analysis/screening.

For the CLP provisions, 167 products were checked, 141 products by NEAs, one product only by customs and 25 products with a common responsibility of customs and NEAs. 107 were not in conformity, raising the **overall non-compliance rate for CLP to 64 %**. Most of the non-compliances were related to labelling requirements. The most common violation was the absence of the use of national language on the label, followed by the use of wrong or absent pictograms and signal words. Although the CLP checks were fewer in number, the non-compliance rate for them was higher.

In 2018, the Forum conducted the REF-6 enforcement project that focused on controlling CLP duties. In comparison with the results of REF-6, the non-compliance rate of CLP duties in this project is higher. The total non-compliance rate from REF-6 was 44 %, which is 20 % lower than for this project. In relation to the specific duties of classification and labelling in REF-6, the non-compliance rate for classification was 17 % and for labelling 33 %. The corresponding rates from this project are 30 % and 71 %.

Most of the inspections were carried out by NEAs. Customs did the preliminary checks, in some cases also using x-ray fluorescence (XRF) analysis, and sent information and the results to the NEA who carried out their own procedures. The need for a confirming laboratory analysis was then decided.

Of the 23 % of non-compliant products, 21 % of them were not released for free circulation and either destroyed, re-exported or placed in temporary storage. The remaining non-compliant products were released for free circulation after corrective measures.

The Working group (WG) has set out the findings from the pilot project and has outlined some recommendations for industry, the Forum, inspectors (REACH, CLP and customs) and for the Commission, based on the findings.

II. Project overview

1. Project overview

The Forum has carried out several EU enforcement projects in cooperation with customs authorities. Some examples are: in 2015 during the third harmonised enforcement campaign REACH-EN-FORCE 3 (REF-3). In REF-3, data was provided by customs for the control of REACH registration requirements by importers and only representatives (ORs). One of its conclusions was that more attention needs to be given to importing companies as they are less compliant than manufacturers. The non-compliance rate for importers was at least twice the non-compliance rate for manufacturers. In 2016, REF-4 focused on the control of REACH restriction requirements. Some of the goods controlled were imported and thus cooperation with customs was also important.

In REF-4, the highest rate of non-compliance was with products imported from China (17 %) and from products of unknown origin (39 %), while products originating from the EU/EEA were non-compliant to the lesser degree of 10 % of cases.

Based on the results of this previous projects and to further enhance the cooperation between chemical and customs inspectors, the ECHA Forum established the Forum WG "Cooperation with Customs 2" which was mandated to prepare a proposal for a framework of possible involvement of customs in the control of REACH and CLP. This WG found six models of cooperation among national authorities (see Table 1).

Table 1: Models of cooperation among national authorities

Models where REACH/CLP compliance impacts the release for free circulation by customs	
Model 1.a – Customs asks NEA to assess REACH/CLP compliance	- Customs has doubts about REACH/CLP compliance - Customs asks NEA to assess the REACH/CLP compliance - NEA examines the case and informs customs whether the goods are REACH/CLP compliant - Customs decides whether to release the goods (usually for free circulation) (some variants possible) *This model also applies where customs regularly asks NEAs for technical support and NEAs assess compliance whenever requested for support.*
Model 1.b – Customs asks NEA to assess REACH/CLP compliance for shipments identified through NEA risk analysis	- NEAs prepares a risk profile for customs (e.g. imports of a specific product or by a specific importer) - When customs encounter a shipment matching the risk profile about REACH/CLP compliance, it suspends release - Customs asks NEA to assess the REACH/CLP compliance - NEA examines the case and informs customs whether the goods are REACH/CLP compliant - Customs decides whether to release the goods (usually for free circulation) (some variants possible)
Model 1.c - Customs directly checks REACH restrictions compliance	- Customs has doubt about REACH/CLP compliance - Customs takes the sample to the lab - Customs decides on compliance based on lab results - Customs decides whether to release for free circulation

Model 1.d – Joint checks by customs and REACH/CLP NEAs	- Customs officer and NEA inspector are physically present at customs premises - Customs officer selects shipments subject to REACH/CLP to check - Customs officer checks customs obligations and NEA inspector checks REACH/CLP compliance - Customs decides whether to release the goods, considering also the REACH/CLP compliance
Models where REACH/CLP compliance does not directly affect release for free circulation	
Model 2.a – Customs provides data requested by NEA	- NEA requests data from customs (on a specific case or imports in general) - Customs provides the data to NEA. Customs activities are unaffected
Model 2.b – Customs spontaneously provides data to NEAs	- Customs provides import data to NEAs on specific cases, for example on authorised substances - NEAs undertake further REACH/CLP enforcement

Whereas data provided from customs to NEAs after release for free circulation (described above as models 2.a and 2.b) has been used in past REACH enforcement projects (REF-3 and REF-4), the WG initiated a pilot project to test those models where REACH/CLP compliance impacts the release for free circulation by customs (models 1.a to 1.d).

For that purpose, controls of some restrictions listed in Annex XVII to REACH and controls of labelling and packaging according to the CLP Regulation were selected. One of the aims of enforcement actions is to restrict the access of non-compliant goods to the EU market, and one of the best ways to achieve this is to carry out controls before imported products are released for free circulation in the EU market by customs.

Under the REF-4 project, the compliance of chemicals and articles in the EU-market were checked for 14 specific restrictions. The highest rates of non-compliance were observed for phthalates in toys for entry 51 (20 %), cadmium in brazing fillers (14 %) and asbestos, mostly in second-hand articles (14 %). The overall non-compliance rate of that project was 18 %, very close to the 17 % rate for restrictions from this project.

Three restricted metals (cadmium, lead and nickel) and their compounds were selected. Some additional substances were also checked by some MSs. The types of products controlled were mainly jewellery, metal parts of textile products, plastic used for packaging and toys. CLP requirements for labelling, packaging and classification of hazardous chemicals were controlled for a wide variety of chemical products.

The involvement of customs in the enforcement of the REACH and CLP regulations is considered a significant contribution to an effective and efficient enforcement of the chemicals' legislation. This involvement and the related actions from customs authorities reduce the number of non-compliant products placed on the EU single market and, at the same time, improve the safety of consumers. Additionally, they promote the application of rules of fair play for European and non-European compliant goods.

This project was presented to the PARCS Expert Group which gathers national customs experts dedicated to non-fiscal customs controls with regard to the protection of health, the environment and nature as well as product safety and compliance controls. They

constructively supported this project and were informed on its progress on several occasions.

The operational phase of the pilot project was from March to November 2019.

2. Legal obligations covered in this project

Article 67 of the REACH Regulation sets the legal framework for the restriction of substances as such, in mixtures and/or in articles. Annex XVII to REACH contains the restricted substances as well as their specific restriction conditions.

The legal obligation within the scope of this project is the verification of compliance with Article 67(1) of REACH which stipulates that a substance on its own, in a mixture or in an article, for which Annex XVII contains a restriction shall not be manufactured, placed on the market or used unless it complies with the conditions of that restriction.

Articles 3(1), 3(2) and 3(3) of REACH define what is to be considered as a substance, a mixture or an article. Other terms which were of significance for this project (*e.g*. importer, producer of article, placing on the market) are also defined in Article 3.

Titles III and IV of the CLP Regulation set the legal framework for labelling and packaging of hazardous chemical substances and mixtures. One scope of the project was to carry out the following “simple” checks on imported hazardous chemicals:

- Article 17(1) - Check if the CLP labelling is present.
- Article 19(2) - Check if CLP pictograms or symbols used for the transport of dangerous goods are present and not other symbols (for example the old safety symbols used under DSD or DPD, or labelling according to other non-EU legislation).
- Article 31(1) - Check if the label is firmly affixed to the package.
- Article 35(1) - Check whether the package is leaking.

Each participating country could also check any other CLP labelling and packaging elements.

III. Results of the project

1. Participation and number of inspections

17 MSs participated in the project[2]. 16 MSs reported on a total of 1 389 inspected products (see Table 2).

Table 2. Reported inspections per country

No	MS	Number of products controlled		
		a) Overall	b) Number of products controlled with restrictions duties	c) Number of products controlled with CLP duties
1	BE	296	296	-
2	BG	3	3	-
3	CY	54	36	18
4	CZ	71	69	2
5	DE	333	219	114
6	EE	9	9	-
7	EL	62	57	7
8	ES	36	27	10
9	FI	14	14	-
10	FR	82	82	-
11	HU	3	2	1
12	IT	115	103	12
13	LT	12	10	2
14	LU	40	39	1
15	PL	13	13	-
16	SE	246	246	-
	SUM	**1 389**	**1 225**	**167**

2. Companies and products inspected

The target groups were importers of articles and mixtures containing restricted substances and also importers of substances and mixtures, which were not labelled or packaged correctly. The project mainly covered B2B imports. B2C imports might have been targeted but were not a priority of this project.

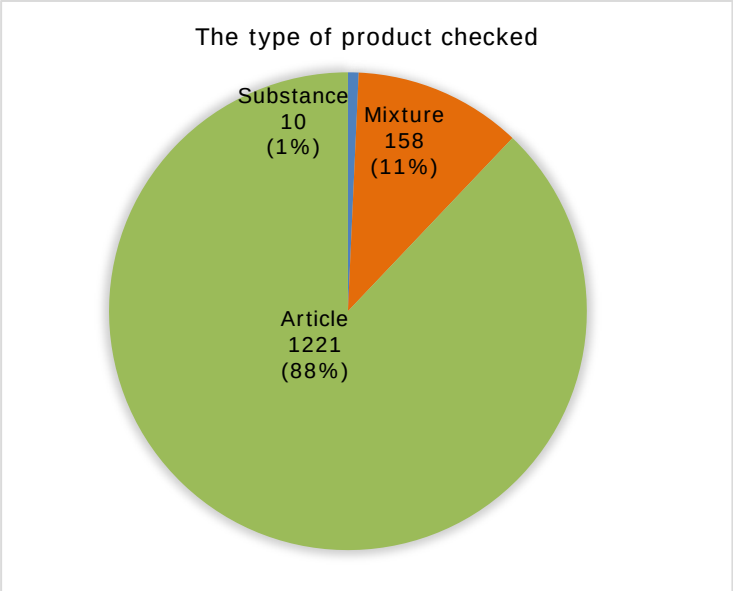
Each participating MS decided on the number of inspections to be conducted and collected and analysed as many samples as possible for one or more of the chosen restriction entries and/or for CLP labelling and packaging. There was no minimum or maximum number of samples to be tested.

[2] AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HU, IT, LT, LU, PL, SE

The REACH role of the inspected company was verified in 1 013 cases and in all of them it was concluded that they were importers.

The most controlled products were articles, that accounted for 88 % (1 221) of all checked products, secondly were mixtures 11 % (158) and substances 1 % (10) (see Chart 1).

Chart 1: The type of product checked.



The top five categories of products checked (based on the product category (PC) number) are presented in Table 3.

Table 3. Top five products checked based on PC number

	Top products checked based on PC (N=158)	**Number of products**
1	PC35 (Washing and cleaning products)	52
2	PC9a (Coatings and paints, thinners, paint removers)	30
3	PC4 (Anti-freeze and de-icing products)	11
4	PC8 (Biocidal products) and PC24 (Lubricants, greases, release products)	9
5	PC34 (Textile dyes and impregnating products)	8
	PC0 (Other)	12

The main article categories were metal and plastic. 1 107 of checked articles were metal and 56 were plastic. Tables 4 and 5 present detailed results.

Table 4: Metal articles category checked

Metal articles category checked	**Number of products**
Metal articles	542
Metal articles: Articles intended for food contact	48
Metal articles: Furniture and furnishings	3
Metal articles: Articles with intense direct dermal contact during normal use (e.g. jewellery)	497
Other metal articles	17
Sum of metal articles	**1 107**

Table 5: Plastic articles category checked

Plastic articles category checked	**Number of products**
Plastic articles: Large surface area articles	1
Plastic articles: Toys intended for children's use (and child dedicated articles)	12
Plastic articles: Packaging (excluding food packaging)	7
Plastic articles: Articles intended for food contact	13
Plastic articles: Articles with intense direct dermal contact during normal use	15
Other plastic articles	8
Sum of plastic articles	**56**

European article number (EAN)

The EAN was provided only for the 94 out of the 1 389 checked products (7 %).

Combined nomenclature (CN) code

For articles, the Harmonized system of the World Customs Organisation's (HS) headings (first 4 digits of the CN code) mostly used in customs declarations are shown in Table 6.

Table 6: Most common HS headings for articles

HS heading	**Description**	**Number**
7117	Imitation jewellery	738
7113	Jewellery	246
9617	Vacuum flasks ("Thermos")	48
7116	Articles of semi-precious stones	17
7114	Goldsmiths' or silversmiths' wares	14
9102	Wristwatches, pocket-watches and other watches	13
9503	Toys	12
6402	Footwear with plastic	11
9101	Wristwatches, pocket-watches and other watches, with precious metal	11
7326	Other articles of iron or steel	10
3923	Plastics bags and plastic caps	9
7315	Chains of iron or steel	7

2.1. Inspections of restrictions

It was up to each participating MS to choose the restrictions (Annex XVII entries 23, 27, 63 or other – see Table 7) to control during the operational phase of the project.

Table 7. Entries from Annex XVII to REACH that were in the scope of the project

Annex XVII entry	Substances	Products to be controlled
23	cadmium and its compounds	plastic packaging materials and jewellery
27	nickel and its compounds	jewellery and metal parts (e.g. buttons, zippers)
63	lead and its compounds	jewellery

The main three restrictions of Table 7 were selected by the WG due to the fact that a high non-compliance rate was observed in REF-4 and because a screening, on-the-spot analysis for the three metals can be performed using handheld XRF instruments.

The most controlled restrictions were entry 23 (cadmium) and entry 63 (lead) (see Chart 2). The number of nickel checks was much lower. The main reason was probably that nickel laboratory analysis is much more complicated and time-consuming. Also, there is a high chance for false positive results in XRF screening. The content of nickel might be high according to XRF, but its migration out of the product can be very low at the same time.

1 225 inspections were conducted on products which were checked for the compliance with restrictions duties.

622 products were checked for compliance with entry 27 (nickel) – 6 out of 622 inspections with a common responsibility of customs and NEAs.

1 118 products were checked for compliance with entry 23 (cadmium) – 1 out of 1 118 inspections with a common responsibility of customs and NEAs.

1 044 products were checked for compliance with entry 63 (lead) - 3 out of 1 044 inspections with a common responsibility of customs and NEAs.

81 products were checked for other entries (6 for asbestos, 43 for azocolourants, 47 for chromium(VI), 50 for polycyclic aromatic hydrocarbons (PAHs), and 51 for phthalates) – see Chart 2 and Table 8.

Chart 2: Inspections of restriction duties

The total number of inspections for compliance with restriction entry 6 (asbestos) comes from two MSs and concerns only the product “Thermos” (see Table 8). The origin of the majority of the products was China except one, which was from the United States of America. 32 of the total 38 controls were conducted through a laboratory analysis and 16 of them were checked through visual checks (which has excluded the asbestos' presence). Non-compliances were not found for these products.

Table 8: Other entries checked

Other entries checked (81 checks)	**Number of products**
entry 6 - asbestos	48
entry 43 - azocolourants	10
entry 47 - chromium(VI)	16
entry 50 - PAHs	1
entry 51 - phthalates	6

From all 1 225 controls of restrictions, NEAs carried out 37 inspections and customs carried out 35 inspections where they only checked documents submitted by the importers. Altogether, 10 non-compliances were detected on the basis of submitted documents, without laboratory controls.

2.1.1. Checks by customs authorities

Customs authorities checked the compliance of importers with Annex XVII entries during 17 % (211 products) of all inspections of restrictions (1 225 inspections). Entry 27 - nickel was checked during 153 inspections; entry 23 - cadmium in 144; entry 63 - lead in 141 and in 48 inspections they also checked other entries (6, 43, 51).

2.1.2. Checks by NEAs

NEAs checked during 83.5 % (1 023 products) of all inspections of restrictions compliance (1 225 inspections). Entry 23 - cadmium was checked in 975 inspections, entry 63 - lead in 906, entry 27 - nickel in 475 and in 33 inspections there were checks for other entries (6, 43, 47, 50, 51). See Table 9.

Table 9. Types of the product and Annex XVII restrictions entries checked

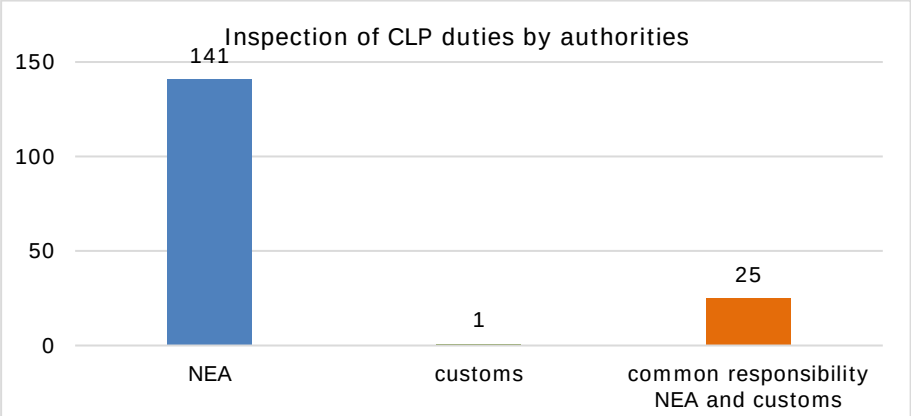
	Number of inspected restriction duties by customs				**Number of inspected restriction duties by NEAs**			
	Entry 23	Entry 27	Entry 63	Other entry	Entry 23	Entry 27	Entry 63	Other entry
Substance	0	0	0	0	1	0	0	0
Mixture	0	0	0	0	4	0	0	2
Article	144	153	141	48	970	475	906	31
Grand Total	144	153	141	48	975	475	906	33
Checks with a common responsibility of NEA and customs	1	6	3	0	1	6	3	0

Most of the inspections were carried out by NEAs. Customs checks involved only articles whereas NEAs also checked substances (1 case) and mixtures (6 cases). In 9 cases, there were controls carried out with a common responsibility of customs and NEAs. In all other cases, checks were performed with divided responsibility. In some cases, customs did preliminary checks, in some cases also XRF analysis, and sent information and results to the NEA who carried out their own procedures, and then the need for confirming laboratory analysis was decided.

2.2. Inspections of CLP duties

There were 167 inspections of products that were checked for compliance with CLP duties. From those, 141 inspections were done only by NEAs and 1 inspection was done only by customs authorities. Additionally, 25 inspections were performed under a common responsibility of NEAs and customs (see Chart 3).

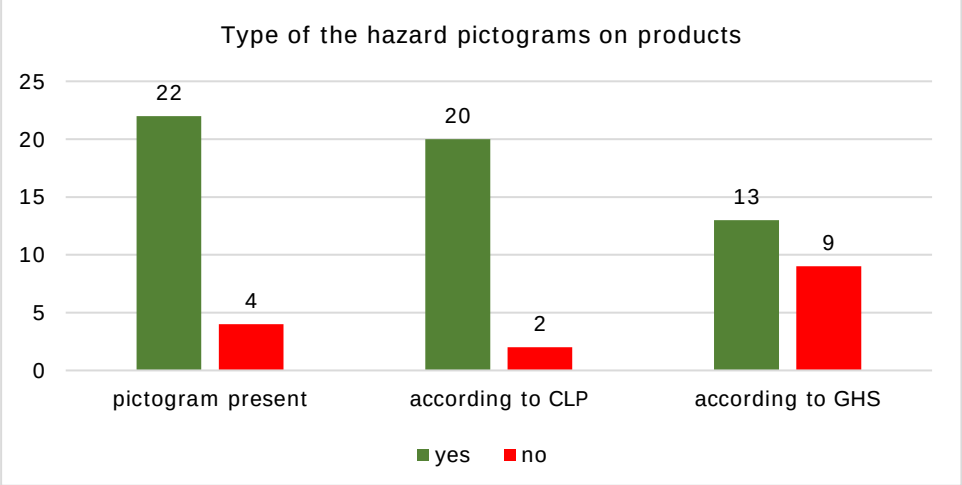
Chart 3: Inspection of CLP duties by authorities



2.2.1. Checks by customs authorities

Customs checked the labelling and packaging of the products during a physical check in 11 % of their inspections (26). 85 % of the checked products (22) had labelling and pictograms indicating that they were hazardous. In all the checked cases, there was no leakage in the packaging and the labels were firmly affixed to the packaging (see Chart 4).

Chart 4: Type of the hazard pictograms on products



2.2.2. Checks by NEAs

NEAs checked CLP duties during 14 % of inspections (166 products). For 63 of the checked products, there was a clear indication that they were intended to be supplied to the general public. The classification was correct for 64 products, 42 products were labelled in accordance with CLP and for 92 products the packaging was in accordance with CLP. Further analysis of the NEA checks is available in Chapter III.3.2.

3. Infringements and enforcement measures

In total, 321 products were detected as non-compliant. The calculated rate of non-compliance was 23 %. 1 068 products were deemed as compliant with checks during inspections of REACH restrictions or CLP duties.

The measures imposed due to non-compliance are presented in Table 10. Multiple options for measures were possible for each non-compliant product, for example, in some MSs, for every non-compliant product an administrative order for its prohibition is issued before a fine is additionally imposed. It has to be noted that possible enforcement measures differ in the different MSs according to their national legislation.

Table 10: Measures imposed due to non-compliance with REACH/CLP obligations subject to this project

	Measures	**Amount**
1	Administrative order	**133**
2	Written advice	**92**
3	Others: (e.g. refusal to import, destruction request, withdrawal from market, goods were not released for free circulation)	**40**
4	Fine	**28**
5	Verbal advice	**21**
6	Criminal complaint / Handing over to public prosecutor's office	**17**

A direct conclusion from Table 10 is that, in practice, inspectors did enforce more than one measure per non-compliant product and that for all non-compliant products (321) some kind of measures were imposed. For some of the 40 products, the NEAs judged that their release to the European market was not safe, since no corrective actions could be applied by the importer and destruction or refusal of import was requested.

Table 11 presents the number of non-compliant products with REACH Annex XVII or CLP duties detected in the participating MSs compared to the overall number of inspections performed in each MS. It needs to be emphasised that the non-compliance rate does not reflect the situation in each participating MS, since only specific obligations were checked under this project.

Table 11. Reported non–compliant products with REACH or CLP duties per country

No	Country	1. Number of inspections	2. Number non-compliance found			
			a) Overall	b) Non-compliant products with restriction duties	c) non-compliant products with CLP duties	d) non-compliant product with other REACH/ CLP duties[3]
1	BE	296	46	46	-	-
2	BG	3	1	1	-	-
3	CY	54	23	5	15	18
4	CZ	71	1	1	-	-
5	DE	333	89	14	75	12
6	EE	9	1	1	-	-
7	EL	62	6	4	2	2
8	ES	36	13	9	4	-
9	FI	14	2	2	-	-
10	FR	82	27	27	-	-
11	HU	3	2	2	-	-
12	IT	115	19	10	9	1
13	LT	12	2	1	1	-
14	LU	40	1	-	1	-
15	PL	13	6	6	-	-
16	SE	246	82	82	-	-
	SUM	**1 389**	**321**	**211**	**107**	**33**

Table 12 presents methods used for checking compliance with REACH restriction obligations.

[3] Other duties than in the main scope of the project e.g. registration obligations for substances in mixtures

Table 12: Methods used for checking compliance with restrictions

Method employed	Number of samples
Chemical analysis/screening	**986**
- Analytical screening investigation by the NEA or the customs authority (e.g. XRF for metals)	893
- Chemical analysis by the NEA or the customs authority	99
- Other:	56
o Visual check for asbestos	10
o External laboratory results for jewelleries	6
Documents	**37**
- Test provided by the company that confirms compliance/non-compliance with conditions of the restriction	31
o By an accredited laboratory, with:	13
▪ ISO 20400:2017	1
▪ ISO	6
▪ ETL (Intertek certification)	4
▪ NSF International (certification from the Public Health and Safety organisation)	1
▪ ISO 9001, 14001	1
o By a non-accredited-laboratory, with:	12
▪ Chinese report, invoice, analysis	2
o Other:	11
▪ Declaration (from importer, exporter)	4
▪ Declaration of conformity	4
▪ OEKO-TEX Certificate (STANDARD 100 certification)	1

3.1. Restrictions controls

3.1.1. Overall level of non-compliance in all products checked

The total number of products which were inspected for restriction duties is 1 225. The total number of non-compliant products for restrictions is 211, so 17 % of the checked products were found to be non-compliant.

The decision for the non-compliance of the above products was based, for the majority of them, on the results of a chemical analysis/screening (95 %) and in a small part of them (5 %) the non-compliance was detected by checking documents submitted by the importer (see Charts 5 and 6).

The level of non-compliance for restrictions identified during this project (17 %) is very close to the level of non-compliance for restrictions identified during the REF-4 project (18 %).

Chart 5: Distribution of compliance (in brackets is the number of products inspected)

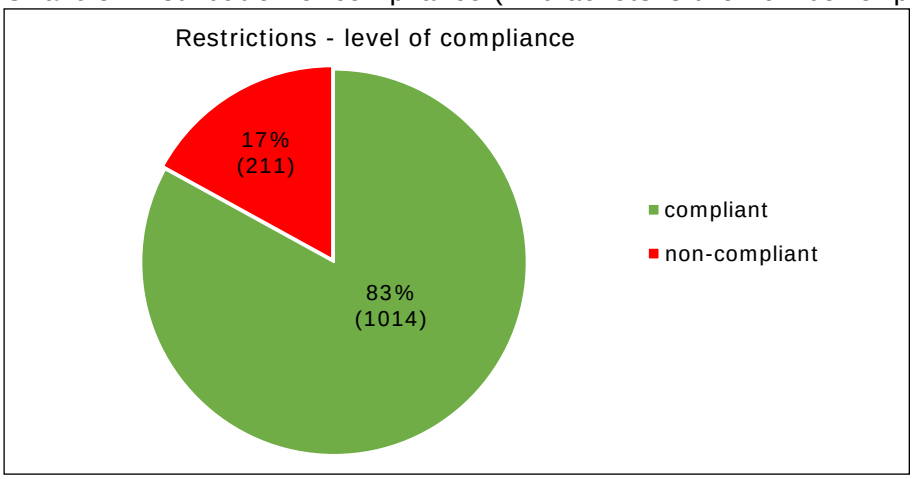
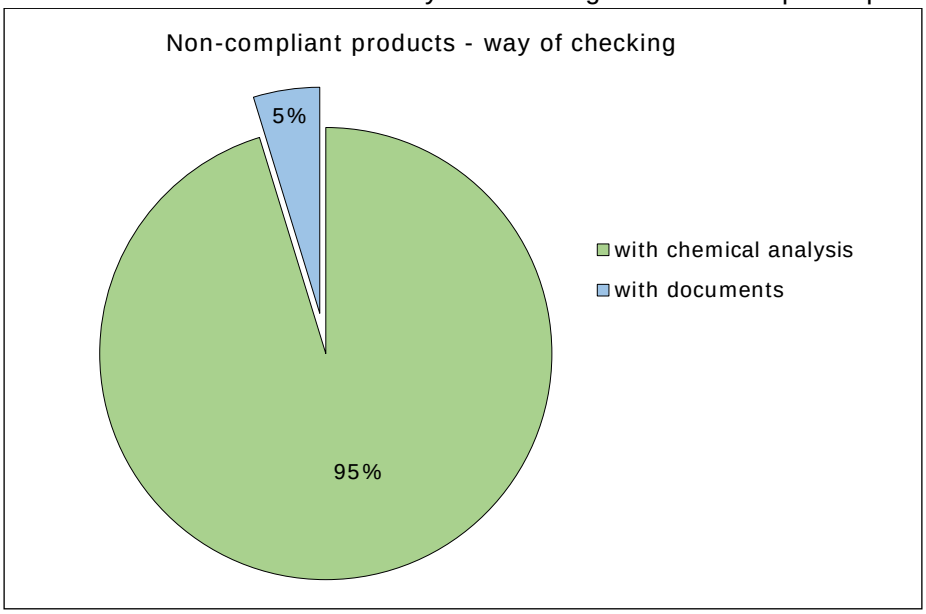


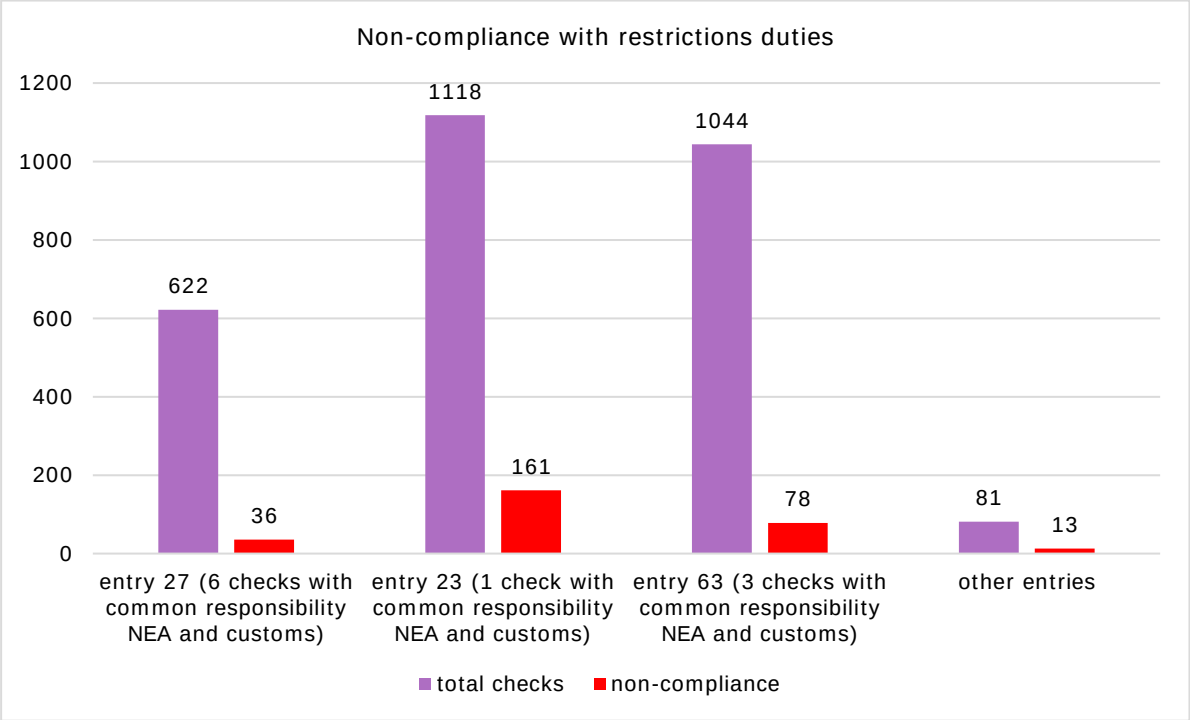
Chart 6: Distribution of the way of checking the non-compliant products



In 66 % of product checks (in 211 products) there was non-compliance found with Article 67 and Annex XVII to REACH (multiple answers were possible) (see Chart 7):

- entry 23 (cadmium) – 161 (14 %) non-compliance products found;
- entry 63 (lead) – 78 (7 %) non-compliance products;
- entry 27 (nickel) - 36 (6 %) non-compliance products;
- other entries - 13 (16 %) non-compliance products.

Chart 7: Number of non-compliances with restriction duties.



3.1.2. Number of times customs checked the restriction duty

Customs conducted inspections for restrictions duties on 211 of the 1 225 products (202 inspections were with model 1.c) (see Chart 8). NEAs conducted inspections for restrictions duties on 1 014 of the 1 225 products. Nine inspections of the above were inspections with a common responsibility of customs and NEA (see Chart 9).

Chart 8: Distribution of inspections (per product)

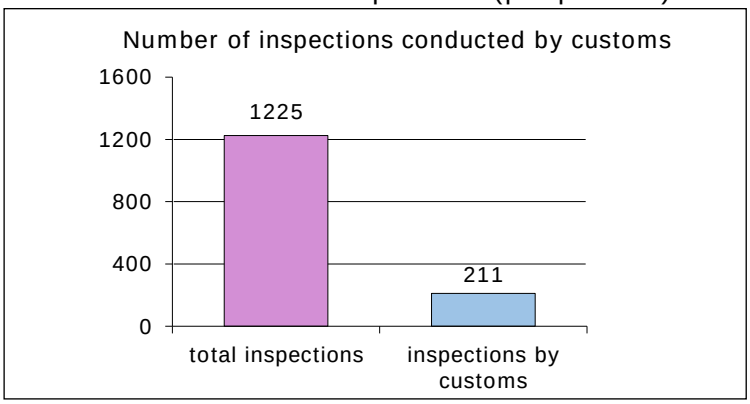
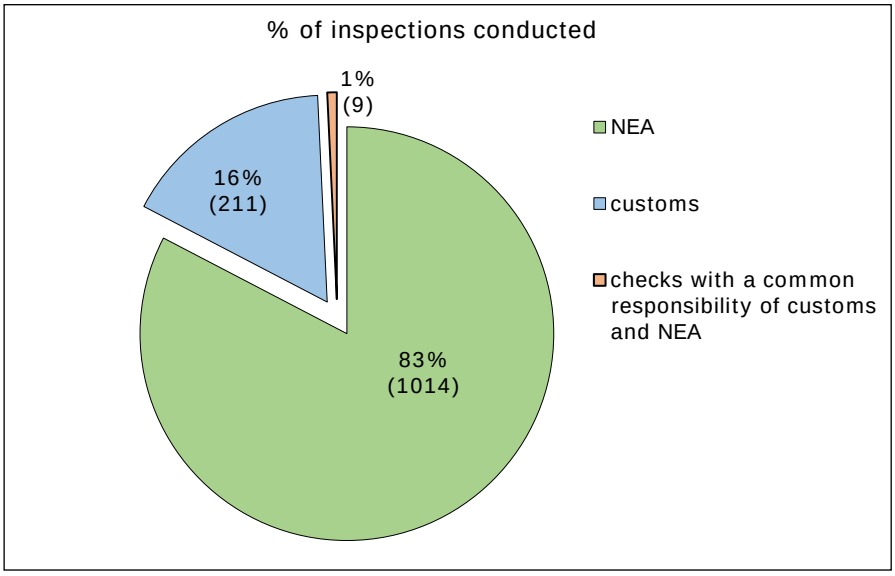


Chart 9: Distribution of proportion of inspections (per product) conducted.

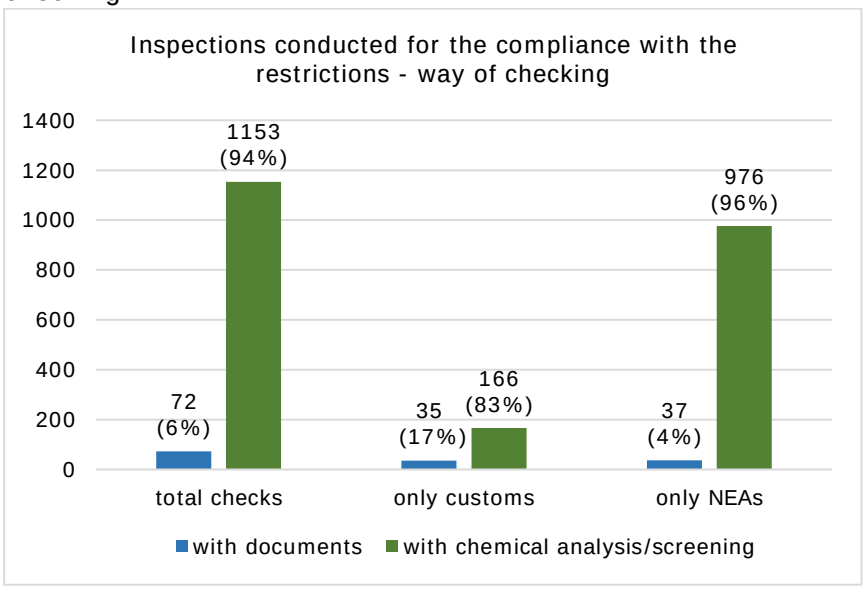


3.1.3. Way of checking the restriction

Most inspections for restriction duties were conducted with chemical analysis/screening. A small part of them were conducted with documents.

17 % of customs checks were carried out on the basis of documents. At the same time, only 4 % of the NEA's checks were performed based on documents. Regarding the inspections with a common responsibility of customs and NEAs for the controls, all checks were performed by chemical analysis/screening (see Chart 10).

Chart 10: Inspections conducted for the compliance with the restrictions – way of checking

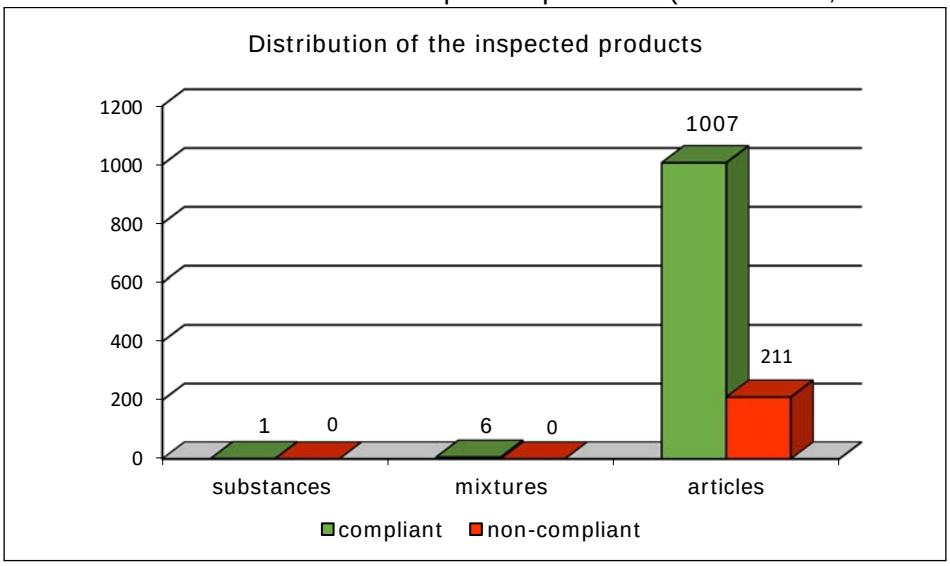


During 9 inspections with a common responsibility of NEA and customs, compliance was checked with the chemical analysis/screening.

3.1.4. Compliance level per product type (S/M/A)

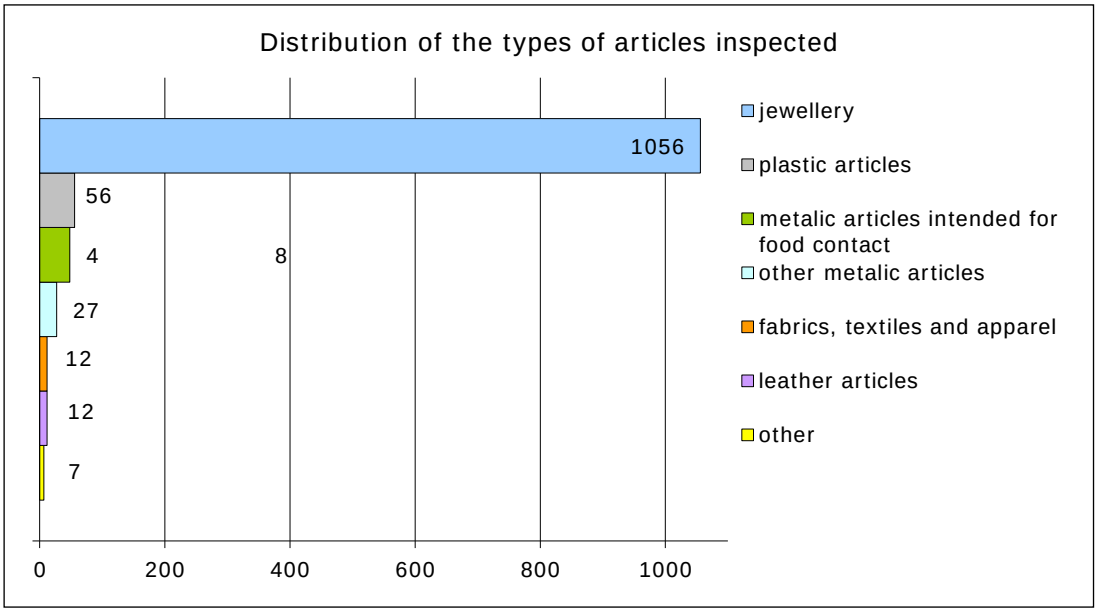
The vast majority of products which have been checked were articles (99 %). All of the non-compliant products were articles (see Chart 11).

Chart 11: Distribution of the inspected products (substances, mixtures and articles).



The majority of the articles inspected for restriction duties were jewellery (86 % of the total number of inspected products for restrictions). The remaining products, which were also inspected, were articles other than jewellery, mixtures and just one substance. Non-compliances were only found in articles. All mixtures and the substance were compliant, which shows, that producers and importers of substances and mixtures might be more aware of restrictions (although the number of controls of substances and mixtures was too low, 6 mixtures and 1 substance) (see Chart 12).

Chart 12: Distribution of the types of articles inspected



3.1.5. Compliance level per restriction entry – for jewellery

Entry 23 – cadmium

1 118 checks for compliance with cadmium were performed. 91 % of these were carried out in jewellery and some checks were also carried out in articles with plastic material and other articles. Non-compliances were found only in jewellery (16 %) (See Charts 13 and 14).

Chart 13: Distribution of cadmium checks per type of product

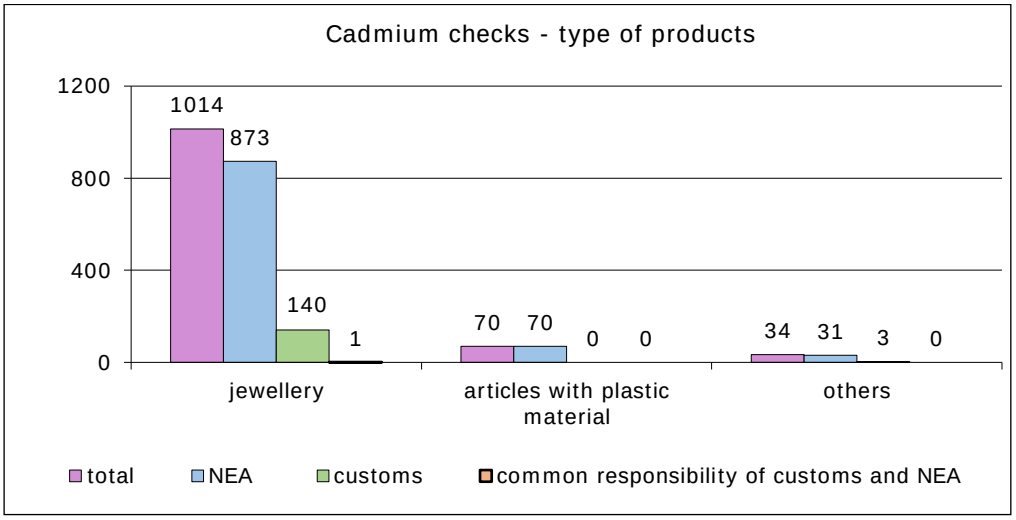
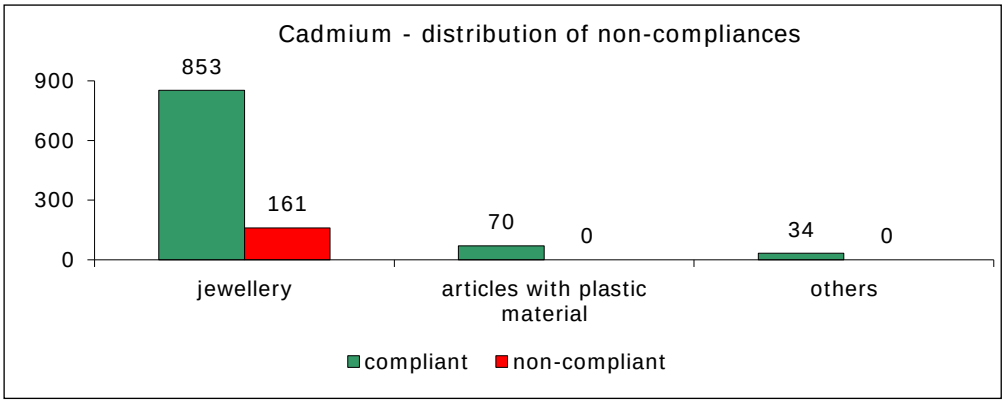


Chart 14: Cadmium - analysis of compliance



Entry 27 - nickel

622 checks for compliance with nickel were performed. 95 % of these checks were carried out in jewellery. 89 % of the non-compliant products for nickel were jewellery and 11 % of them were other products. Metal parts of clothes were all compliant (see Charts 15 and 16).

Chart 15: Distribution of nickel checks per type of products

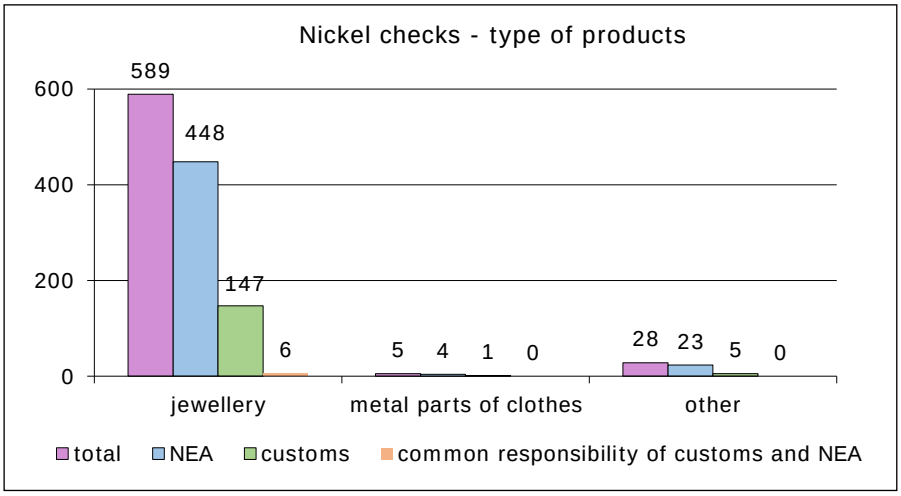
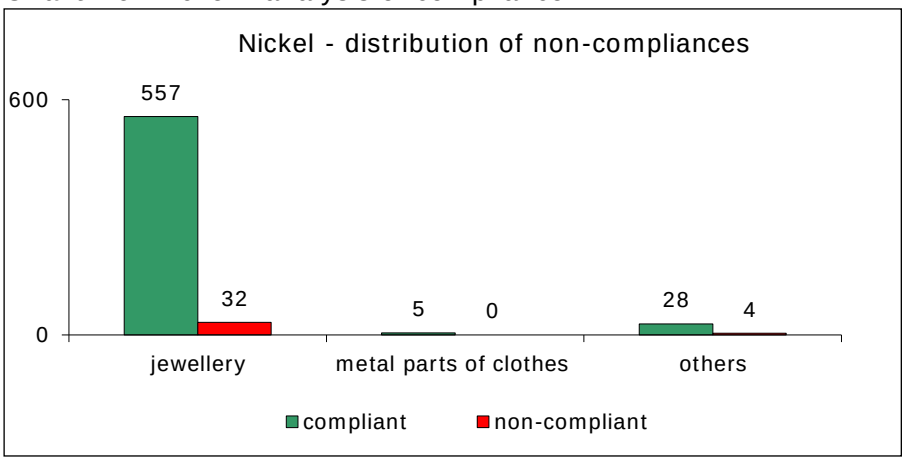


Chart 16: Nickel - analysis of compliance



Entry 63- lead

1 032 checks for compliance with lead were performed. 99 % of these checks were carried out in jewellery. Non-compliances were found only in jewellery (see Charts 17 and 18).

Chart 17: Distribution of lead checks per type of product

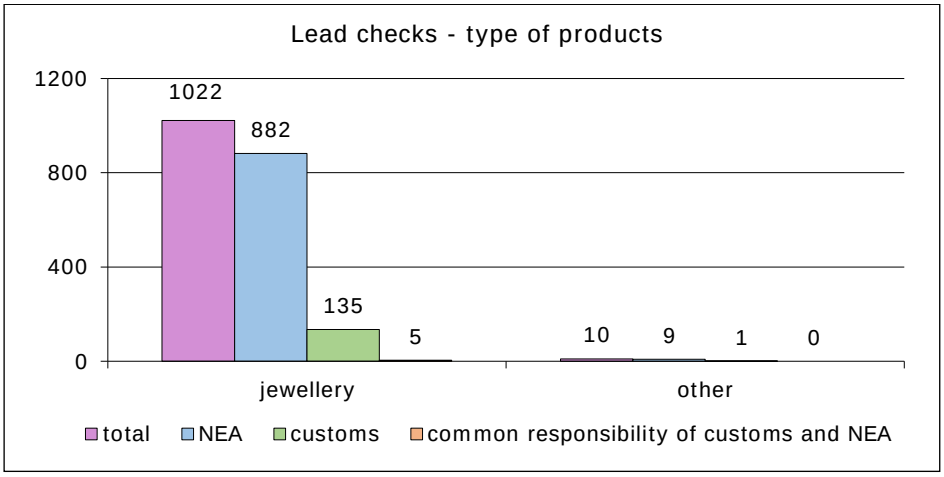
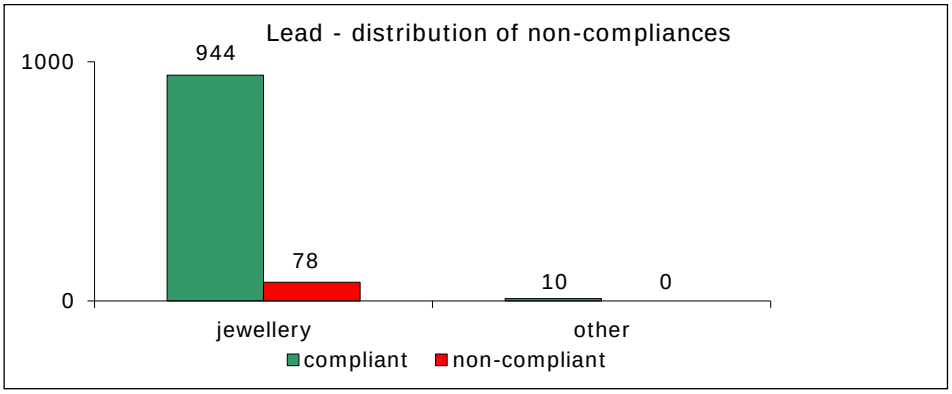


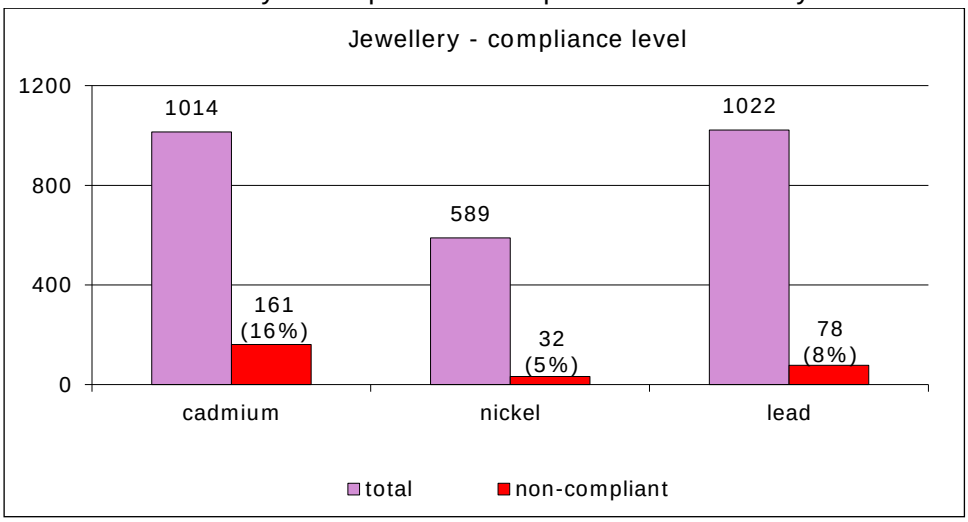
Chart 18: Lead - analysis of compliance



Regarding jewellery, the results confirmed cases of non compliances with all the restrictions checked (cadmium, lead, nickel). There was a 16 % non-compliance rate with cadmium (meaning that 16 % of jewellery products tested contained cadmium above the restricted concentration limit), 5 % non-compliance rate for nickel and 8 % non-compliance rate for lead (see chart 19).

The level of non-compliance for the above mentioned three restrictions in jewellery is similar with the level of non-compliance identified during the REF-4 project (cadmium: 12 %, nickel: 8 %, lead: 7 %).

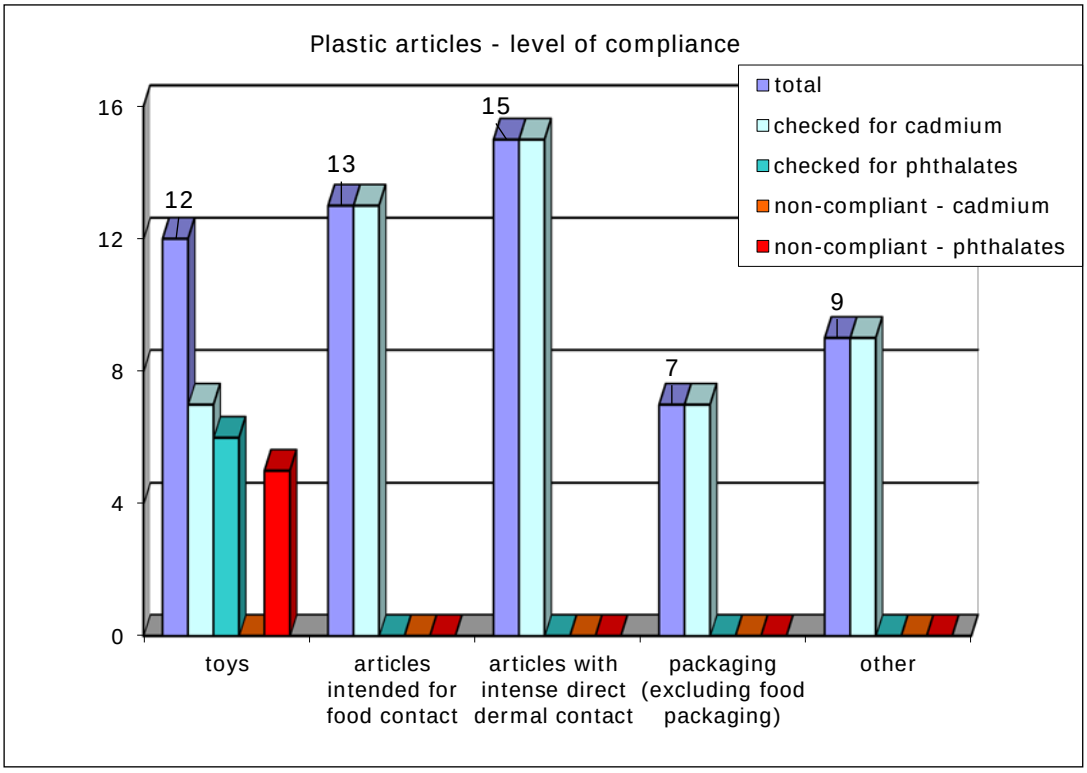
Chart 19: Jewellery – compliance level per restriction entry



3.1.6. Compliance level per restriction entry - for other types of product

The majority of “plastic articles” were checked only for cadmium (entry 23). Only the toys were checked for phthalates (entry 51). No non-compliances of plastic articles with cadmium were observed. Non compliances were detected in toys for phthalates (5 of 6 checked products were non-compliant) but the number of checked products was very low so it is not possible to infer a general trend (see Chart 20).

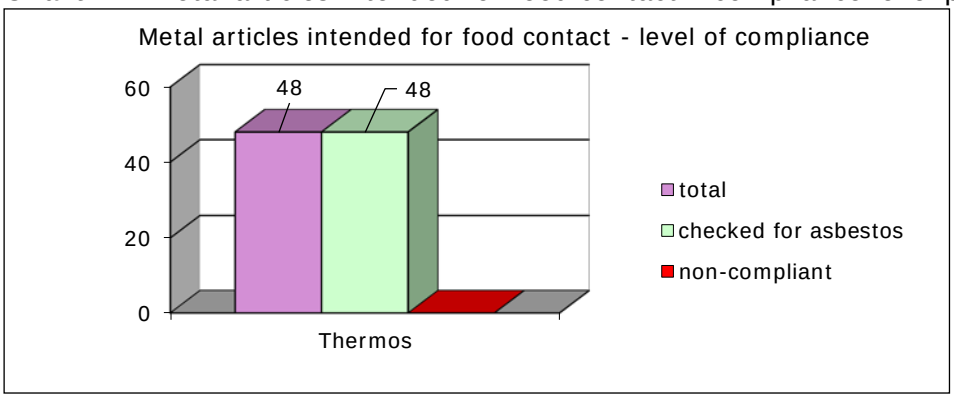
Chart 20: Plastic articles – compliance level per restriction entry



The 48 products '*Metal articles intended for food contact*' were all 'Thermos', because of the frequent detection of asbestos in this type of product and the notifications in the RAPEX system. The total number of inspections for compliance with restriction 6 (asbestos) was carried out by two MSs. The origin of the majority of the products was China except one of them which was from the USA. 32 of the total 48 controls were conducted through a laboratory analysis and 16 of them were checked through visual checks (which has excluded the presence of asbestos).

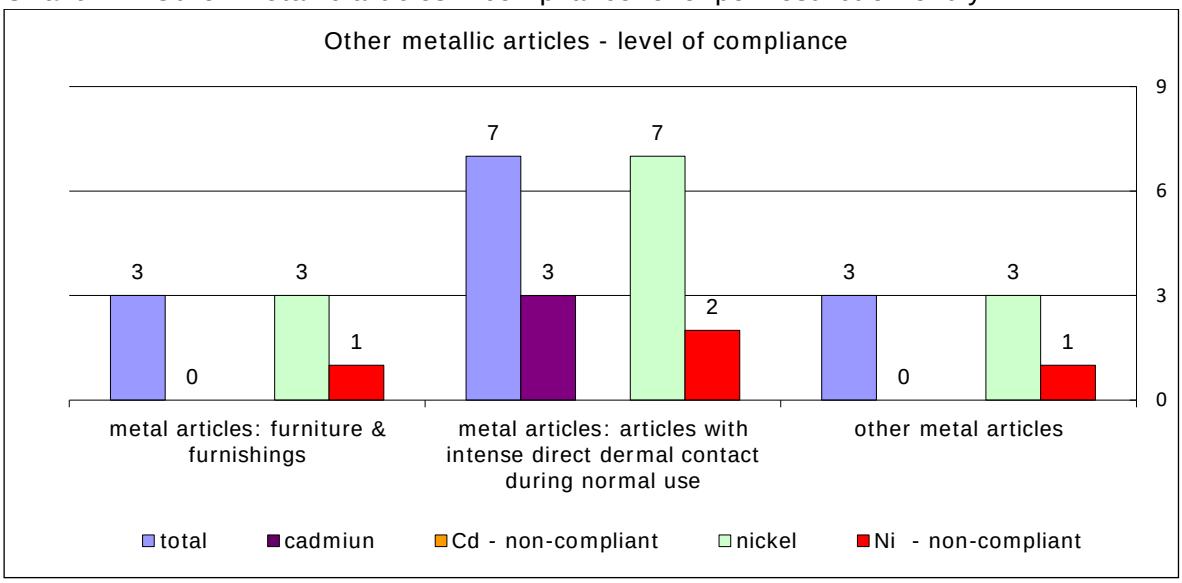
Non-compliances were not found for these products (see Chart 21). There is a significant difference in the level of non-compliance of restriction 6 compared to the level of non-compliance noticed in REF-4 project (14 %). The reason for this could be that the non-compliant products in REF-4 were mainly from the second-hand market (and maybe these products have been produced before the restriction of asbestos fibres was in force) and also different types of products were checked for asbestos in REF-4.

Chart 21: Metal articles intended for food contact – compliance level per restriction entry



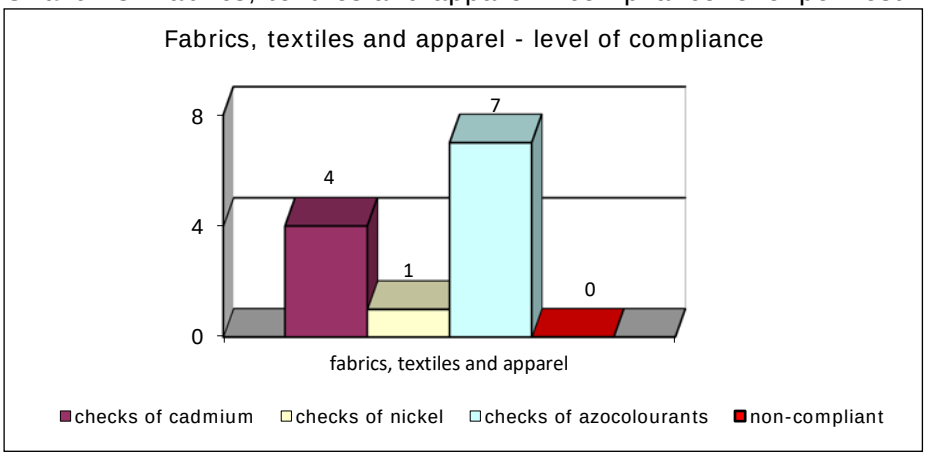
All the products "other metallic articles" were checked for nickel and a small part of them were checked for cadmium. No non-compliances for cadmium were observed. Non-compliances were observed for nickel (4 non-compliant products out of the total 13 checked products) (see Chart 22).

Chart 22: Other metallic articles – compliance level per restriction entry



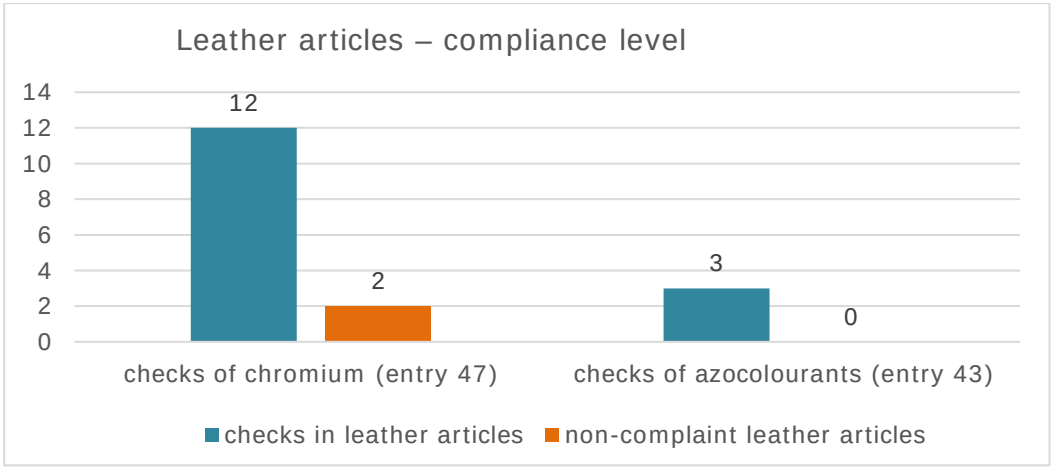
58 % of the products "Fabrics, textiles and apparel" were checked for azocolourants (entry 43) and no non-compliances were found. The remaining products which included metal parts on them, were checked for nickel or cadmium and non-compliances were not found (see Chart 23).

Chart 23: Fabrics, textiles and apparel – compliance level per restriction entry



All “Leather articles” were checked for chromium (entry 47) and a 17 % non-compliance rate for chromium was observed. A small part of them were checked for azocolourants, non-compliances were not found for entry 43 (see Chart 24).

Chart 24: Leather articles – compliance level per restriction entry

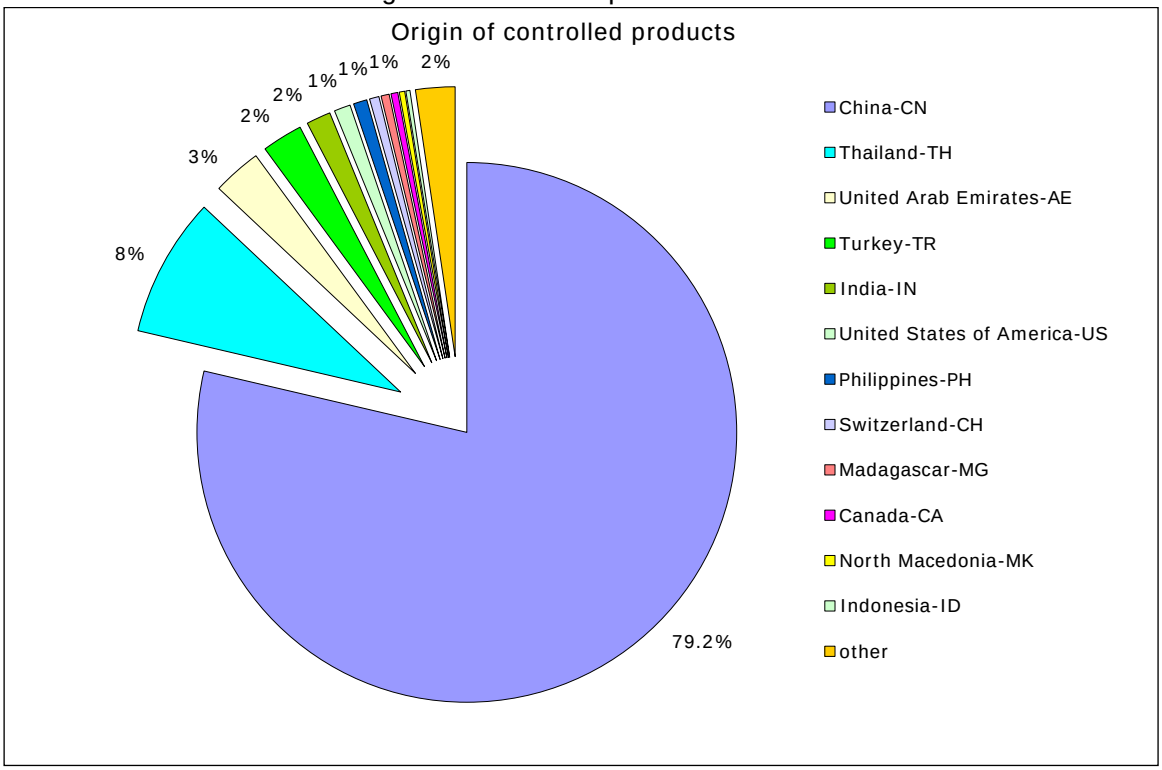


The “other” (total number 7) remaining group of articles checked included different types of products such as rubber articles and machinery. They have been checked for cadmium and one of them for PAHs (entry 50). Non-compliances were not observed.

3.1.7. Breakdown of origin of controlled products and of non-compliant products

The majority of controlled products in this project came from China (79 %) (see Chart 25).

Chart 25: Breakdown of origin of controlled products for restrictions



The majority of the non-compliant products (73.5 %) also came from China (see charts 26 and 27).

The rate of non-compliance for products imported from China was 16 % (it is comparable with the 17 % rate noticed in REF 4 project).

The rate of non-compliance for products imported from Thailand was 4 %.

Some very high rates of non-compliance were also observed for products originating from the United Arab Emirates (35 non-compliant products out of 36 checked), from India (14 out of 18 checked) and from North Macedonia (2 out of 4 checked). All the non-compliant products originating from the United Arab Emirates were observed only in one MS, all the non-compliances concerned cadmium and all these products were also checked for nickel and lead. It was confirmed that all these products were part of a lot from a limited number of manufacturers. The total number of checked products from India and from North Macedonia (18 and 4 respectively) is low and therefore the number of importers (and manufacturers) corresponding to them is even smaller.

Taking into account all the above data, it is not possible to infer a general trend for the rate of non-compliance for products imported from the above mentioned countries.

Chart 26: Breakdown of origin of non-compliant products

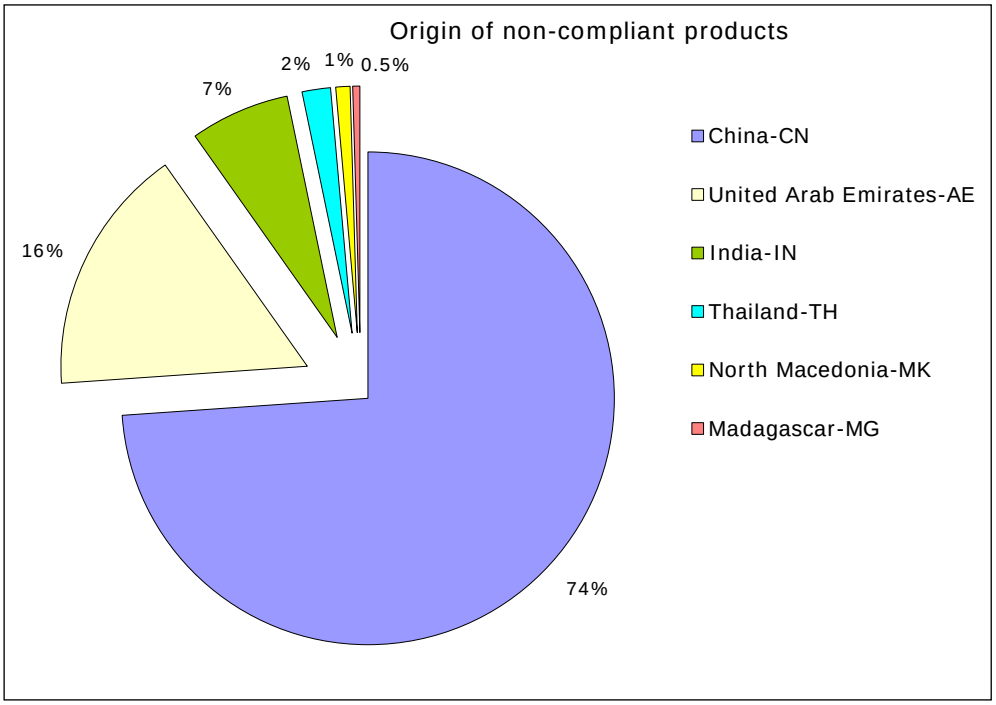
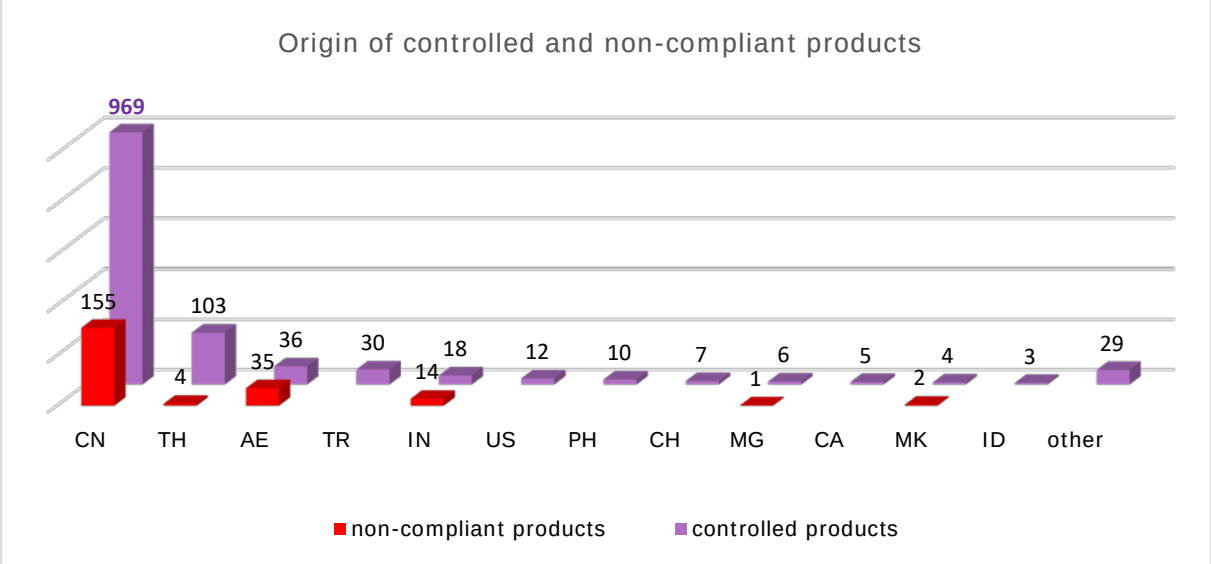


Chart 27: Breakdown of origin of controlled products and of non-compliant products



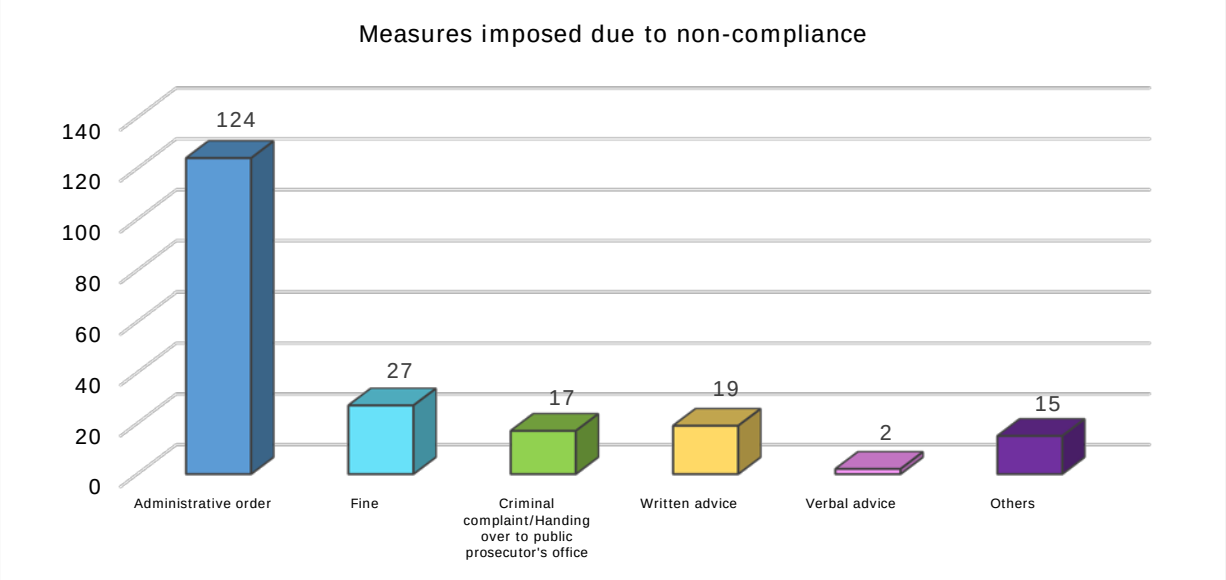
3.1.8. Non-compliance per type of duty holder (I/DU/OR)

The majority of products which were inspected and the majority of non-compliant products came from companies with the role of importer and not by only representatives or downstream users who operate under only representatives. This finding is according to the fact that the majority of products checked were articles.

3.1.9. Type of enforcement measures and sanctions taken by NEA in response to restriction infringements

For all the non-compliant products related to restrictions, NEAs imposed an administrative order in 59 % of the cases, a fine in 13 % of the cases, a written advice in 8 % of the cases, a verbal advice in 0.9 % of cases and other measures in 7 % of the cases. In 4% of the cases (8 cases), no measures were imposed (see Chart 28).

Chart 28: Measures imposed due to non-compliance related to restrictions



3.2. CLP controls

Compliance with CLP duties was checked for 167 products and non-compliance was observed for 107 products. This corresponds to a 64 % non-compliance rate for both the customs and NEA checks.

In 2018, the Forum conducted the REF-6 enforcement project that focused on controlling CLP duties. In comparison with the results of REF-6, the non-compliance rate of CLP duties in this project is higher (see Table 13).

Table 13: Comparison of the results of REF-6 and Custom II related to CLP

	REF-6 project [%]	**Customs II project [%]**
Total non-compliance rate	44 %	64 %
classification	17 %	30 %
labelling	33 %	71 %
packaging		11 %

The following non-compliances were found for CLP duties (multiple answers were possible) (see Chart 29):

- 28 non-compliant products with classification (in total 92 products were controlled for classification) – 30 % rate of non-compliance.

- 107 products with labelling issues (in total 150 products were controlled for labelling) – 71 % rate of non-compliance.
- 12 non-compliant products with packaging (in total 110 were controlled for packaging) – 11 % rate of non-compliance.

Chart 29: Amount and type of non-compliances with CLP duties (multiple answers were possible)

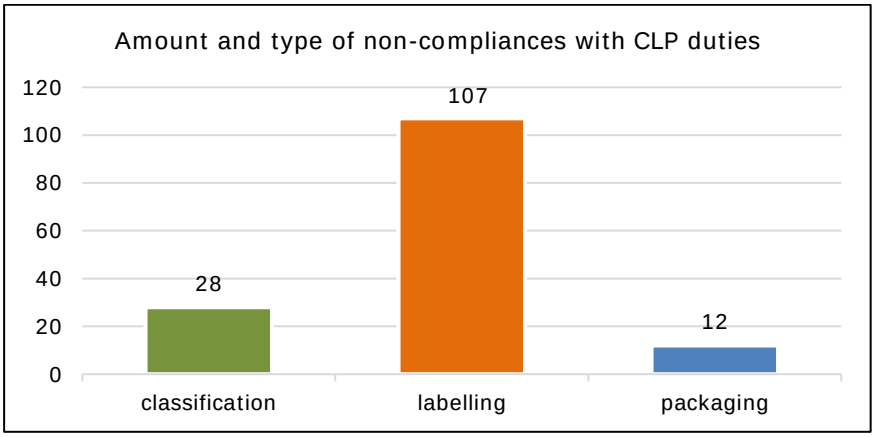


Table 14 presents the reasons for the non-compliance of the products with CLP labelling duties.

Table 14: Reasons for the non-compliances with CLP labelling duties.

CLP labelling non-compliances	Number of Products	Rate of labelling infringements (N=107)
Not in the official language	55	51 %
Hazard statements wrong or missing	40	37 %
Signal word wrong or missing	38	36 %
Hazard pictograms are wrong or missing	28	26 %
Substance/mixture is not labelled	27	25 %
Missing or wrong contact information (name, address and/or telephone number)	24	22 %
Precautionary statements wrong or missing	18	17 %
Listing of substances wrong or missing	16	15 %
Product identifier is wrong or missing	9	8 %
Supplemental information wrong or missing	7	7 %
Product name is missing	4	4 %
General rules for the application of labels on the packaging are not met	4	4 %
Substance/ mixture is labelled according to the previous legislation (DSD/DPD)	3	3 %
Nominal quantity is missing	2	2 %

Out of the 321 products which were found to be non-compliant under this project, 107 were for CLP issues (33 %).

In relation to the customs involvement, customs officers physically checked 26 products for their labelling and packaging. They concluded by themselves on the conformity of the product in only one of these checks. For the remaining 25 cases, they involved the NEA.

Apart from the above, the NEAs checked 141 more products. Out of the total 166 products (with the ones controlled together with customs officers), the NEAs checked 76 products intended for professional use and 63 products for public use. There was no information for the remaining 27 products.

In the some of the CLP checks (74 cases), inspectors did not check the classification of the products.

Out of the 92 cases where the inspectors did check the classification of the products, 28 were non-compliant (30 %).

In 55 products, the labelling information in Section 2.2 of the safety data sheet (SDS) did not match the labelling on the product and the classification information in Section 2.1 of the SDS.

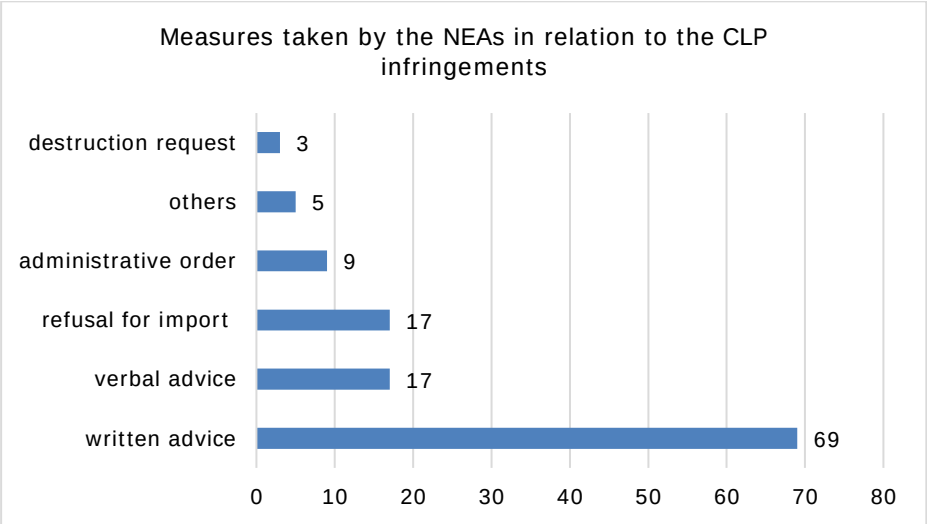
Packaging of the chemical products was checked in 110 cases. Incorrect packaging was observed for 12 products. The details of the non-compliances are shown in Table 15.

Table 15: Reasons for the non-compliances with CLP packaging duties.

CLP packaging non-compliances	Number of Products	Rate of packaging infringements
Tactile warning missing	6	5 %
Others (missing information)	4	3 %
Child resistant fastening missing	2	2 %

The following measures were taken by the NEAs in relation to the CLP infringements. The option of having multiple measures applied for the same product was possible (see Chart 30).

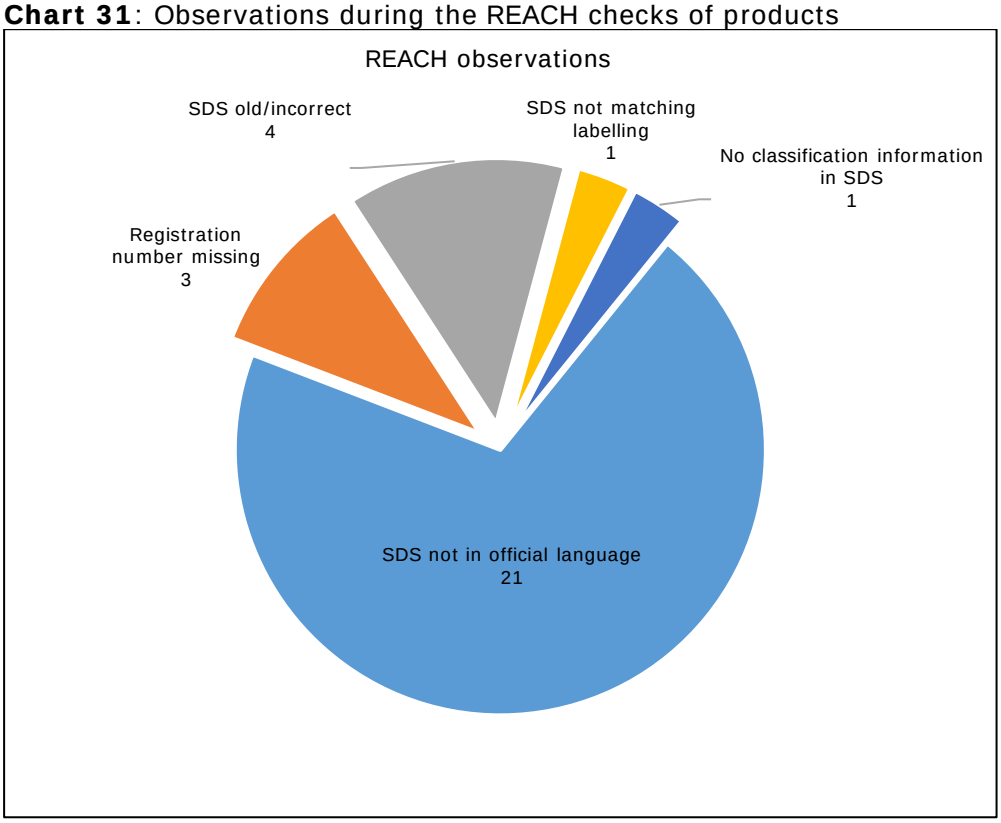
Chart 30: Measures taken by the NEAs in relation to the CLP infringements.



3.3. Other REACH / CLP observations

In 33 checks, there were observations for REACH articles which were not in the main scope of the project. For example, the registration numbers for substances exceeding 1 tonne per year were missing. For chemicals imported by companies which were not mere importers of the dangerous products but also distributors, inspectors asked for the SDS of the imported product. Although the lack of SDS at the point of import may not be a non-compliance according to REACH, its presence is helpful for inspectors in order to check classification, labelling, various regulatory information and mixture identity issues. The results from the checks of these "other" REACH observations are presented in Chart 31.

Chart 31: Observations during the REACH checks of products



4. Cooperation with customs

The involvement of customs is considered as an important contribution to the effective and efficient enforcement of the REACH and the CLP regulations. Controls of imported goods can reduce the number of non-compliant products placed on the market and, at the same time, improve the safety of consumers, promote the application of rules of fair play for compliant European industries and ensure a level playing field for the imported products and the ones manufactured in the EEA. The most effective way to ensure that non-compliant imported products are not placed on the market is to carry out adequate checks before those products are released for free circulation.

In this project special attention was given to controls at entrance points to the European Economic Area (EEA), for example at harbours, airports or land borders. However, the project also covered cases where the goods were declared for free circulation after being transported under customs surveillance to inland customs offices.

In nearly all of the participating MSs, NEAs need some form of cooperation with customs authorities to implement import controls as they have no direct access to imported products as long as they are under customs supervision. For customs, this is not an untypical situation because they cooperate also in other product areas with the competent market surveillance authorities.

4.1. Model of cooperation

In most cases, customs contributed to this project by notifying the REACH and CLP enforcing authorities when shipments of imported products, which fell under the scope of the project, were declared for free circulation.

The most frequent models of the cooperation used during the inspections were (see Table 16):

- Model 1.d (Joint checks by customs and REACH/CLP NEAs). This model was used during 43 % of inspections (593). NEA inspectors were physically present at the customs premises at agreed times. Customs selected shipments for joint checks. Customs officers checked customs duties, NEA inspectors checked REACH and CLP.
- Model 1.b. (Customs asked NEAs to assess REACH/CLP compliance for shipments identified through NEA risk analysis). That model was used by authorities in 37 % of inspections (512).

Models 1.c (Customs directly checks REACH restrictions) and 1.a (Customs asks NEA to assess REACH/CLP compliance) were used less frequently.

Table 16. Model of cooperation chosen during the inspections

Model	Number	%
Model 1.a Customs asks NEA to assess REACH/CLP compliance	81	6
Model 1.b Customs asks NEA to assess REACH/CLP compliance for shipments identified through NEA risk analysis	512	37
Model 1.c Customs directly checks REACH restriction compliance	202	15
Model 1.d Joint checks by customs and REACH/CLP NEAs	593	43
Customs conducted the checks of CLP without involving NEA (during physical check of goods)	1	0,1
Total	**1 389**	**100 %**

For each cooperation model, a comparison between the numbers of controls with identified non-compliances could give an indication on the efficiency of the cooperation model. The comparison of the percentage of detected non-compliances of the controlled products of each cooperation model show that, for the controls of REACH restrictions, the cooperation models 1.c (Customs directly checks REACH Restrictions compliance) and 1.d (Joint checks by customs and REACH/CLP NEAs) seem to be the most efficient ones for detecting non-compliances. For CLP, the models 1a, 1b and 1d seem to be similarly efficient.

The active role and the responsibility to determine compliance or non-compliance with REACH and CLP duties is dependent on the type of the cooperation model used (see Table 17).

Table 17. Model of cooperation chosen during the inspections, details related to REACH and CLP controls and identified non-compliances

	REACH			CLP		
Model of cooperation	**controls**	**non-compliances**	**in %**	**controls**	**non-compliances**	**in %**
1.a Customs asks NEA to assess REACH/CLP compliance	60	10	17	23	14	61
1.b Customs asks NEA to assess REACH/CLP compliance for shipments identified through NEA risk analysis	447	61	14	66	44	67
1.c Customs directly checks REACH restriction compliance	202	42	21	0	0	0
1.d Joint checks by customs and REACH/CLP NEAs	516	98	19	77	48	62
Customs conducted the checks of CLP without involving NEA (during physical check of goods)	0	0		1	0	0

In some models, only NEAs or customs is responsible for the assessment of REACH and CLP compliance; in other cooperation models or special cases, both could be the competent authority (see Tables 18 and 19).

Table 18. Competent actors for REACH and CLP controls (i.e. assessment of compliance) and identified non-compliances

Actors	REACH			CLP		
	controls	non-compliances	in %	controls	non-compliances	in %
NEA	1 023	169	17	166	107	64
Customs	211	43	20	26	15	58
both	9	1	11	25	15	60

Table 19. Model of cooperation chosen during the inspections in the specific MS

Model	MS
Model 1.a Customs asks NEA to assess REACH/CLP compliance	BG, DE, EL, HU, IT, PL
Model 1.b Customs asks NEA to assess REACH/CLP compliance for shipments identified through NEA risk analysis	BE, DE, EE, EL, ES, LT, LU
Model 1.c Customs directly checks REACH restriction compliance	FI, FR, IT, PL
Model 1.d Joint checks by customs and REACH/CLP NEAs	CY, CZ, DE, EL, LT, SE

The comparison of the percentage of detected REACH and CLP non-compliances of the controlled products by NEAs, customs or both actors could also give an indication on the effectiveness of the cooperation models.

The percentage of detected non-compliances differentiated according to the competent authority show that, for the controls of REACH restrictions, customs was a bit more efficient, whereas NEAs were almost also effective as well. For determining CLP compliance, NEAs seems to be the most efficient authority.

4.2. Aggregated reasons for selecting shipments for control

The main reasons for selecting a shipment for control by customs were risk profiles (738), other targeted controls in the framework of this pilot project (787), checks in combination with other duties being checked (299) and compliance history of the product (137) (multiple answers were possible) (see Table 20).

REACH and CLP duties were controlled mainly by the reasons of targeted controls in the framework of this pilot project and risk profiles. Most cases of non-compliance were also identified by these two reasons.

For each reason triggering the selection of a shipment to check, the number of non-compliances gives an indication on the efficiency of the procedure. The percentage of detected non-compliances shows that, for REACH restriction compliance, the procedures of targeted controls in the framework of this pilot project, requests from NEAs during a joint inspection, risk profile and controls in combination with other duties being checked (beneath random findings) seem to be the most efficient ones for detecting non-compliances.

For detecting CLP compliance, risk profile, targeted controls in the framework of the pilot project and compliance history of the product seem in general to be the most efficient procedures to determine non-compliances. Depending on the detailed CLP obligations, the most efficient procedures are:

- Classification: risk profiles, compliance history of the product
- Labelling: risk profiles
- Packaging: compliance history of the product

Table 20: Reason of triggering for the selection of the shipment to check

Reasons	Amount
Targeted controls in the framework of the pilot project (other than risk profiles)	787
Risk profile	738
In combination with other duties being checked	299
Compliance history of the product	137
Random	40
Request from NEA during joint inspection	20
Compliance history of the company	0

Table 21: Reason of triggering for the selection of the shipment to check, number of checks and identified non-compliances in REACH and CLP

Reason	REACH			CLP		
	checks	identified non-compliances	in %	checks	identified non-compliances	in %
Risk profile	656	98	15	84	60	71
Compliance history of the product	133	3	2	4	2	50
Compliance history of the company	0	0	0	0	0	0
In combination with other duties being checked	297	46	15	2	0	0
Random	29	11	38	12	5	42
Request from NEA during joint inspection	19	3	16	3	0	2
Targeted controls in the framework of the pilot project (other than risk profiles)	693	148	21	95	58	61

Table 22: Reason of triggering the selection of the shipment to check, number of controls and identified non-compliances in CLP – classification, labelling, packaging

Reason	Controls			Non-compliances [no]			Non–compliance [%]		
	classification	labelling	packaging	classification	labelling	packaging	classification	labelling	packaging
Risk profile	17	56	28	9	56	0	53	100	0
Compliance history of the product	2	4	3	1	0	1	50	0	33
Compliance history of the company	0	0	0	0	0	0	0	0	0
In combination with other duties being checked	2	2	2	0	0	0	0	0	0
Random	9	11	8	1	5	0	11	45	0
Request from NEA during joint inspection	3	3	3	0	0	0	2	0	0
Targeted controls in the framework of the pilot project	75	90	89	7	58	6	9	64	7

4.3. Customs procedure applied after the REACH/CLP checks and when non-compliance was detected

4.3.1. Customs procedure applied after the REACH/CLP compliance was check

After REACH/CLP compliance was checked, customs authorities allowed the goods to be released for free circulation in 75.5 % of the checks. In 21 % of the checks they did not release the goods and in 3 % the goods were released for free circulation after corrective measures were applied by the importer before release or with corrective measures supervised by NEAs after release. Detailed information on the customs procedures which were applied is presented in Table 23.

Table 23: Customs procedure applied after the REACH/CLP compliance was checked

	Customs procedure applied	**Amount**	**%**
1.	Goods were released for free circulation	1 049	76
2.	Goods were released for free circulation after corrective measures	19	1
3.	Goods were released for free circulation with corrective measures supervised by NEA after release	28	2
4.	Goods were not released for free circulation but: - Destroyed - Re-exported - Other: o legal conformity was not established, no information on the whereabouts of the good has been reported to the WG o Storage o Under sampling analysis o Seizure o Re-labelled o no (final) information /unknown (at the time the case was reported)	293 - 197 - 52 - 92 o 56 o 18 o 5 o 2 o 1 o 2	21
Total		1 389	100

It has to be reminded that no corrective measured can be applied for products containing a restricted substance, since there is no possibility for the importer to intervene in the composition of the product. A slight possibility exists for restrictions related to the use of a specific product (e.g. products allowed only for professional use) and this was not the case for the restrictions checked under this project. It was, therefore, anticipated that for most of REACH non-compliances of Annex XVII, a prohibition of their placing on the European market would have been the preferable enforcement action.

4.3.2. Customs procedures applied for non-compliant products

Various customs procedures were applied after REACH/CLP non-compliance was detected. Considering non-compliances related to restriction obligations, most of the non-compliant goods were not released for free circulation, i.e. goods were destroyed (65 %) or re-exported (21 %). In the details of the customs procedure related to CLP obligations, most of the non-compliant goods were also not released for free circulation, i.e. in detail for CLP no (final) information was available (37 %) at the time the case was reported or goods

were released for free circulation with corrective measures supervised by NEAs after release (18 %).

Table 24: Customs procedure applied after the REACH/CLP non-compliance was detected

	REACH		CLP	
Customs procedure applied	identified non-compliances	in %	identified non-compliances	in %
goods were released for free circulation	2	1	4	4
goods were released for free circulation after corrective measures	0	0	8	8
goods were released for free circulation with corrective measures supervised by NEAs after release	1	0	19	18
goods were not released for free circulation but:	208	99	75	71
- destroyed	137	65	2	2
- re-exported	44	21	4	4
- Other:	24	11	67	63
o no (final) information /unknown (at the time the case was reported)	5	2	39	37
o chemical analysis	5	2		
o seizure	1	0	1	1
o temporary storage	10	5	8	8
o importers warehouse until laboratory analysis	2	1		
o re-labelled			1	1
o legal conformity was not established, no information on the whereabouts of the good has been reported to the WG			14	13
o withheld at the importers warehouse			1	1
o waiting for the destruction			3	3

4.3.2.1. Customs procedures for REACH non-compliant products

In almost all cases (99 % of the total) where non-compliant products were found during import controls, the customs did not release them for free circulation (see Chart 32).

Instead, the relevant commodities were destroyed (65 % of the cases), re-exported (21 % of the cases) or other actions were taken (e.g. still in temporary storage) (13 % of the cases) (no information on 2 % cases) (see Chart 33).

Chart 32: Customs follow-up actions for the REACH non-compliant products

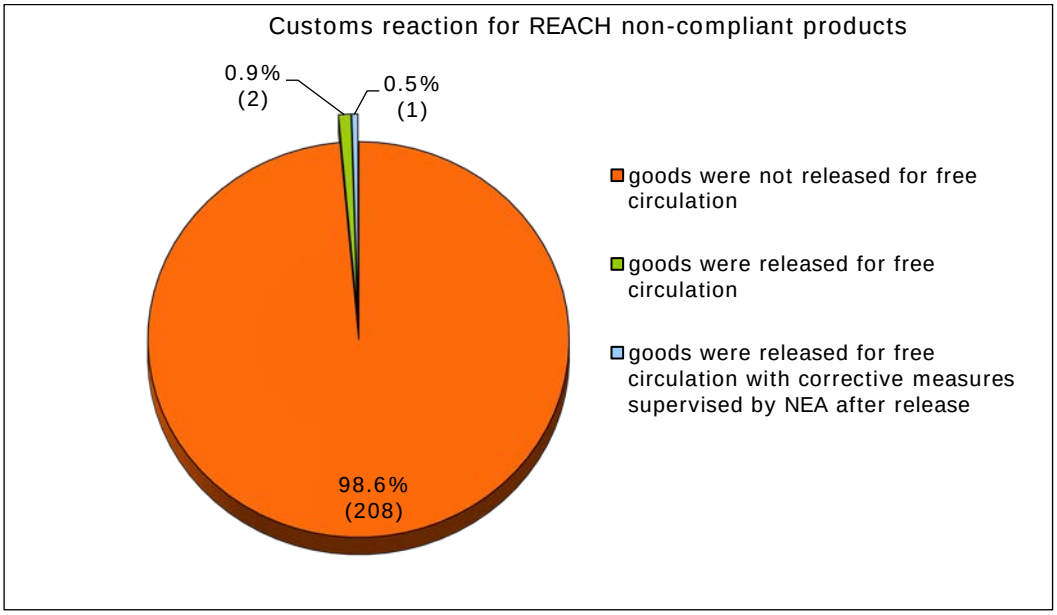
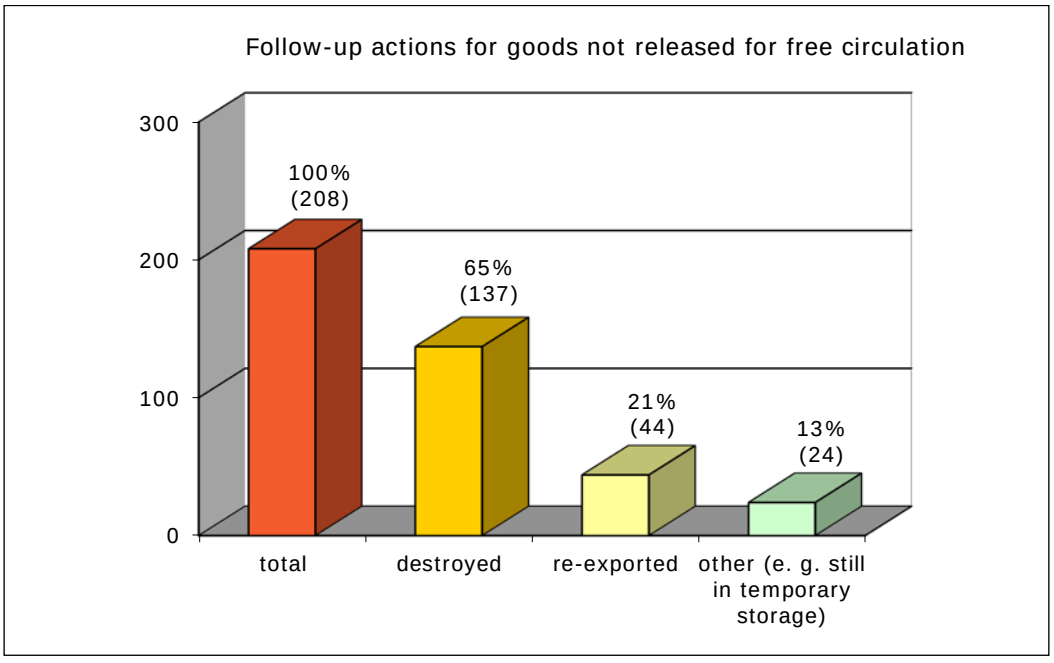


Chart 33: Products which were not released for free circulation



4.3.2.2. Customs procedure for the CLP non–compliant products

The customs procedure which was followed after the checks of the products for CLP is presented in Table 25.

Table 25: The customs procedure applied after the CLP checks of products

Customs procedure applied after the CLP compliance was checked	**Total number of products**	**Number of products checked by customs**	**Number of products checked by NEAs**
goods were released for free circulation	45	10 (9 checks with a common responsibility of customs and NEAs for the controls)	44 (9 checks with a common responsibility of customs and NEAs for the controls)
goods were released for free circulation after corrective measures	17	3 (3 checks with a common responsibility of customs and NEAs for the controls)	17 (3 checks with a common responsibility of customs and NEAs for the controls)
goods were released for free circulation with corrective measures supervised by NEA after release	26	7 (7 checks with a common responsibility of customs and NEAs for the controls)	26 (7 checks with a common responsibility of customs and NEAs for the controls)
goods were not released for free circulation but:	79	6 (checks with a common responsibility of customs and NEAs for the controls)	79 (6 checks with a common responsibility of customs and NEAs for the controls)
- destroyed	2	2 (checks with a common responsibility of customs and NEAs for the controls)	2 (checks with a common responsibility of customs and NEAs for the controls)
- re-exported	7	0	7
- unknown to the NEA	54	0	54
- storage	8	0	8
- waiting for the destruction	3	3 (checks with a common responsibility of customs and NEAs for the controls)	3 (checks with a common responsibility of customs and NEAs for the controls)
- seizure	1	1 (checks with a common responsibility of customs and NEAs for the controls)	1 (check with a common responsibility of customs and NEAs for the controls)
- withheld at the importer's warehouse	1	0	1
- re-labelled, then compliant	1	0	1

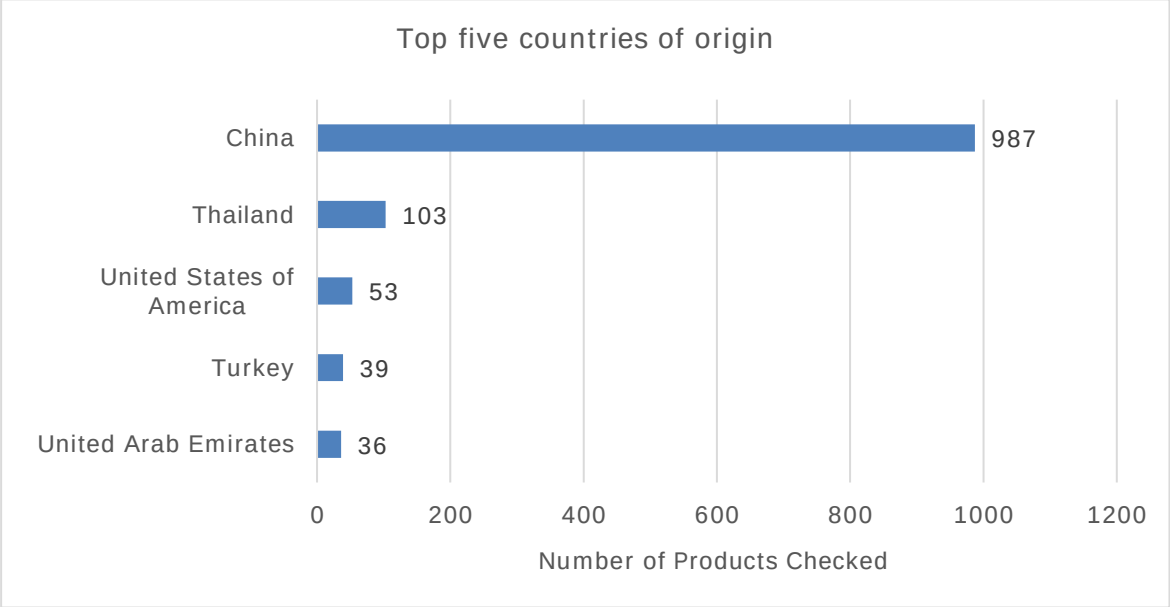
5. Other findings

5.1. Analysis in relation to the origin of the overall products inspected in the project

The country of origin of the product was reported based on the custom declaration. The checked products originated from 32 different countries.

The majority (72 %) of all products checked came from China and the non-compliance rate for the Chinese products was 13 %. In second place the country of origin was Thailand (8 %) and in third place the United States of America (4 %) (see Chart 34 and Table 26).

Chart 34: Top 5 countries of origin



A specific country of origin might have been in some cases one criterion amongst others to select the specific product for inspection. However, high numbers for certain countries are more an indicator that the specific country is a main contributor to the European market.

Table 26: The origin of the product[4]

	Country origin		Overall		Non-compliant products	
			Amount of products	% (N=1 372)	with REACH	with CLP
1	China	CN	987	72	155	17
2	Thailand	TH	103	8	4	
3	United States of America	US	53	4		21
4	Turkey	TR	39	3		4

[4] In several MSs, the goods were re-imported to these MSs.

5	United Arab Emirates	AE	36	3	35	
6	Switzerland	CH	29	2		18
7	India	IN	20	1	14	2
8	Russian Federation	RU	14	1		10
9	Canada	CA	10	1		5
10	Philippines	PH	10	1		
11	Japan	JP	6	0.4		4
12	South Korea	KR	6	0.4		
13	Madagascar	MG	6	0.4	1	
14	North Korea	KP	5	0.4		5
15	Mexico	MX	5	0.4		2
16	Australia	AU	4	0.3		3
17	Bahrain	BH	4	0.3		
18	Indonesia	ID	4	0.3		1
19	North Macedonia	MK	4	0.3	2	
20	Serbia	RS	4	0.3		
21	Vietnam	VN	4	0.3		
22	Albania	AL	3	0.2		
23	Israel	IL	3	0.2		1
24	Singapore	SG	3	0.2		
25	Chile	CL	2	0.1		1
26	South Africa	ZA	2	0.1		
27	Brazil	BR	1	0.1		
28	Kazakhstan	KZ	1	0.1		
29	Malaysia	MY	1	0.1		
30	Peru	PE	1	0.1		
31	Qatar	QA	1	0.1		
32	Ukraine	UA	1	0.1		
	Grand Total		**1 372**	**100 %**	**211**	**94**

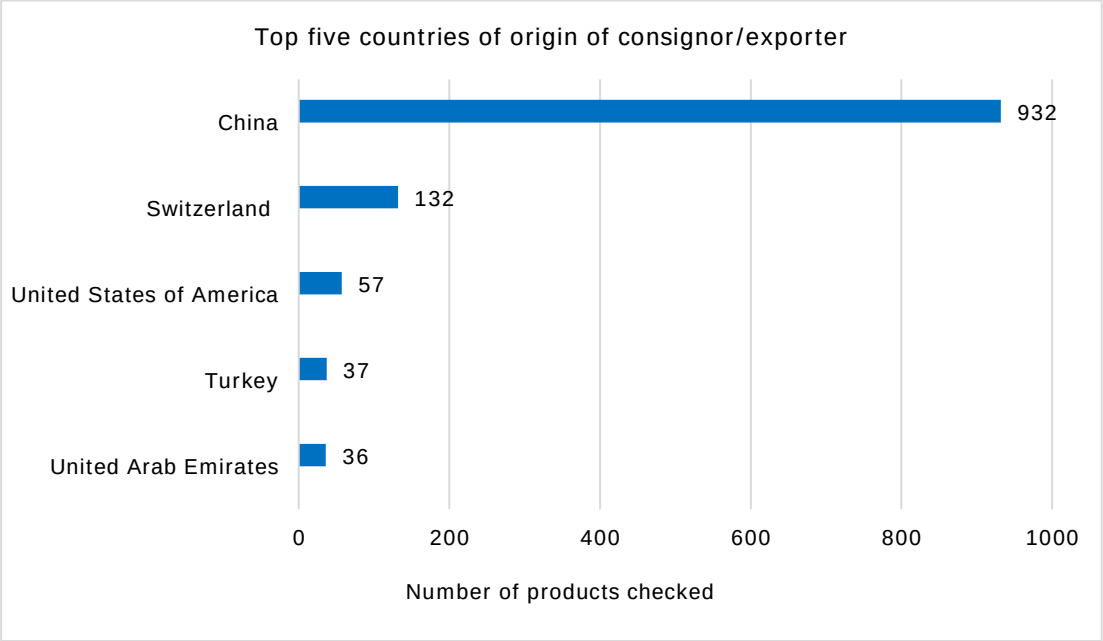
Reimported products with an origin in the EEA must also be declared for free circulation at customs. Such reimports were not exempted from the project. Therefore, an additional 17 products with country of origin in the EEA were checked.

5.2. Analysis in relation to the origin of consignor / exporter

The consignors/exporters of the products were located in 34 countries.

The majority (67 %) of all exporters (932) are located in China. In second place the exporters for the checked products were in Switzerland 9.5 % (132) and in third place were in the United States of America 4 % (57).

Chart 35: Top five countries of origin of consignor/exporter



5.3. Cooperation between NEAs in different MSs

Information on 52 cases was forwarded to Forum members (46 cases) or focal points (2 cases) in other MSs (no information on the recipient in 4 cases). The tool used for communication between NEAs in different MSs was PD-NEA/Interact Portal in 48 cases and RAPEX in 2 cases (no information in 2 cases).

The reason in 48 cases was that the importer was from the other MS (no information for 4 cases). This is typical for cases where the customs declaration is lodged in a different MS than that of the importer (e.g. goods are declared for free circulation on arrival in city1/MS1 and transported to the importer in city2/MS2 after customs clearance).

The 48 cases of non-compliant products with restriction duties (23 % of the total cases of non-compliance with restrictions duties) were forwarded to other MSs.

Two non-compliant cases with the CLP Regulation were forwarded to the focal point of another MS.

5.4. Status on the follow-up activities

Follow-up activities were completed in 96 % (for 1 335 products) of case and still on-going in 4 % (54 products).

Approximately by the end of 2019, the follow-up activities for non–compliant products with REACH restriction obligations had been completed for 189 products and were on-going for 22 products.

Approximately by the end of 2019, the follow-up activities for non–compliant products with CLP obligations had been completed for 84 products and were on-going for 23 products.

IV. Conclusions and recommendations

Based on the data received and the analyses that could be conducted on them, the following conclusions and recommendations can be drawn from the project.

1. Conclusions

Overall

The overall (REACH and CLP) non-compliance rate from this project was 23 %. This reveals that almost one in every four imported products is not in conformity with REACH or CLP Regulations.

Most of the checks performed were on restriction obligations. The CLP checks, although fewer in number, presented a higher non-compliance rate.

This project confirmed the conclusion from REF-3, that NEAs have an established and functioning cooperation with their national customs and the project had, additionally, contributed in further developing this cooperation. More harmonisation on various details of the national cooperation procedures, such as the risk profiles, is expected to further increase the efficiency of checks for chemicals at customs level.

The EAN number for each inspected product was provided by the importer in only 7 % of the checks. By promoting its use in specific types of articles or chemical products, more documentary checks will be facilitated, tracing of non-compliant products will be easier and less analytical checks will be required. This suggestion is supported by the fact that the place of origin for 39 % of non-compliant products could not be established in REF-4.

Non-compliances for restrictions were only detected in articles. All the mixtures and substances checked were compliant, which shows that producers and importers of substances and mixtures might be more aware of the restriction obligations imposed by REACH.

Conclusions related to restrictions with Annex XVII

The non-compliance rate for all the restrictions checked was 17 %. This is very close to the 18 % non-compliance found in the REF-4 project, which was entirely covering restriction obligations. We can, therefore, conclude that this rate has remained constant from 2016 onwards, despite the various enforcement actions taken in between.

The highest non-compliant restriction detected was for cadmium (16 %). Among the various articles checked (plastic materials/packaging, brazing fillers, jewellery) non-compliances for cadmium were only detected in jewellery. In REF-4, the non-compliance for cadmium was 10 % and the majority of the non-complaint articles were brazing fillers.

An additional similarity to REF-4 is that in this project all the restricted heavy metals (nickel, cadmium and lead) were also detected in jewellery with a 12 % non-compliance rate for cadmium.

NEA inspectors enforced more than one measure per non-compliant product. The most widely used measure was the administrative order, followed by written advice.

For checking compliance of the products, the inspectors have performed 893 screening XRF analyses and 99 laboratory analyses. Fewer products were additionally checked via documents (17 % of the customs checks and 4 % of the NEA's checks). Obviously, the

possibility of applying a screening analytical technique with a fast response time has given the inspectors the chance to check many more products than through the ordinary sampling and laboratory analytical routine.

Conclusions related to CLP obligations

The checks on imported chemicals for compliance with the CLP Regulation were fewer in number than for the REACH restrictions but presented a higher non-compliance rate (64 %).

The major problems identified from the CLP checks were related to labelling, with the first one being the absence of the use of the national language, followed by the absence of or use of wrong pictograms, signal words and statements. Non-compliances for packaging were found in less than 6 % of the checked products. In most of the non-compliant cases a written advice was given to the importer and in 71 % of the cases the products were not released by customs for free circulation.

Inspectors' most efficient way to check the identity of the imported chemical products and the relevant regulatory CLP obligations is through the respective safety data sheet (SDS) of the products. This is, however, impeded as the obligation for SDS's provision at the point of import is not a legal requirement.

The origin of most non-compliant CLP products was the USA. This can probably be attributed to the different legislative labelling system in this country.

Conclusions on the type of cooperation

Model 1.d was the most common model used in the participating MSs, in which joint checks are performed by customs and NEA inspectors.

Only in four MSs, did customs use the model of cooperation 1.c. and checked the restriction compliance alone (Finland, France, Italy and Poland).

Most cases of non-compliance related to REACH and CLP duties were identified with models 1.d and 1.b.

The percentage of detected non-compliances differentiated according to the competent authority. For determining CLP compliance, NEAs seems to be the most efficient authority and for the controls of REACH restrictions customs were a bit more efficient.

The most efficient models detecting non-compliances of REACH restrictions were models 1.c (Customs directly checks REACH restriction compliance) and 1.d (Joint checks by customs and REACH/CLP NEAs) and for CLP the models 1a, 1b and 1d.

The two main reasons for selecting shipments for control were the targeted controls in the framework of the pilot project and the national risk profiles. Depending on the detailed CLP obligations the most efficient procedures were:

- Classification: Risk profiles, compliance history of the product
- Labelling: Risk profiles
- Packaging: Compliance history of the product

Considering non-compliances related to restriction obligations, most of the non-compliant goods were not released for free circulation, i.e. goods were destroyed (65 % of the cases), re-exported (21 % of the cases) or other (e.g. still in temporary storage) (13% of the cases).

For customs procedures related to CLP obligations, most of the non-compliant goods were also not released for free circulation and goods were e.g. released for free circulation with corrective measures supervised by the NEAs after release.

Based on all of the above we can therefore conclude that more stringent enforcement measures are necessary at European points of entrance. Considering that all implementing acts and tools being developed under Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products, with relevance to Chapter VII of this regulation (Products entering the union market), are also directly applicable for future cooperation with customs on REACH and CLP, we expect a more spherical solution in the coming years.

2. Recommendations

Based on the high non-compliance rate, the following recommendations are given by the WG.

2.1. To importers

1. To check with their non-EEA suppliers before importation. If REACH/CLP provisions cannot be met, they should turn to compliant suppliers in EEA or third countries.
2. Contact national helpdesks for precise guidance on the legal provisions to be met for every type of product they intend to import.

2.2. To the Forum

1. Raise awareness among NEAs and ECHA that the provisions for controls of products entering the Union market of the new market surveillance Regulation (EU) 2019/1020 and its planned implementing acts will be also the applicable legal framework for REACH and CLP related import controls.

   This includes tools for electronic communication with customs for the purpose of controls, for common risk management and for electronic data sharing between customs and NEAs (including access to import data from customs declarations).
2. Enhance collaboration with customs' enforcement networks (PARCS) and develop joint projects.
3. Promotion of the use of quick analytical screening techniques, for detecting organic and inorganic substances in mixtures but mostly in articles. This can facilitate enforcement of some of the REACH restrictions before release for free circulation, where big quantities can be assessed by only one check and less enforcement actions are subsequently needed on products already placed in the EEA market.
4. Support of the screening methods used in the MSs per restriction/obligation/type of product and support for their use knowledge.
5. Consider further involvement of the customs authorities in future Forum projects.
6. Support the NEAs and further harmonise MS practices in relation to SDS provisions at custom's level during checks of imported hazardous chemicals.
7. Organising the specific training for the NEAs inspectors for checks at custom's level.
8. Continue to support enforcement for REACH and CLP at the entrance points of the European market. They should also be more harmonised because, at the moment, each MS performs its own risk analysis for stopping imports and this could result in changing the entry points to Europe by importers and also in complaints of non-fair competition.

2.3. To the inspectors (REACH, CLP, customs)

1. Participate in the exchange of inspectors' programme[5] to gain experience from the cooperation with inspectors of other MSs.
2. Organise and participate in joint inspections with either national customs authorities or inspectors from other MSs (e.g. from bilateral programs).

2.4. To ECHA

1. A specific awareness raising campaign on fulfilling REACH and CLP provisions for the imported products to the EU to importers and their unions.

2.5. To the European Commission

1. Continue funding the exchange of inspectors' programme and evaluate the possibility to engage also customs authorities within the programme, even if it should be held remotely.
2. Promote deeper knowledge of analytical/screening techniques used by inspectors. For example, support the NEAs on the acquisition and use of the necessary screening equipment at points of entrance to the European single market, since these can multiply the number of checks performed.
3. As the non-compliance for restrictions remains at the same level for the last three years, it is essential to establish systematic and harmonised controls during import. This will result not only in preventing the entrance of non-compliant products to the European market but will also send a strong message to third countries in order to take immediate measures to improve the compliance of the products imported into the European Union.
4. Continue to analyse and use customs procedures or other legislation to enhance REACH and CLP enforcement at the borders (e.g. TARIC, new market surveillance regulation).
5. Define a legal obligation that the SDS have to be provided during customs procedure within the customs declaration.

Annexes:

Annex 1: Questionnaire

[5] Programme for the exchange of enforcement inspectors in the areas of REACH and CLP (currently funded by DG GROW).

Annex 1: Questionnaire

PRODUCT QUESTIONNAIRE Forum Project on cooperation with customs (fill out **one questionnaire per product** inspected)	
Section 0 - General Information about the inspection	
0.1. Participating country:	
0.2. File reference:	
0.2.1. Who was involved in the checks? ◯ Customs only ◯ Customs and NEA	
0.2.2 Customs reference number	Not essential to the WG – for customs reference only
Section I: Details of the company inspected / product This section can be filled by customs or NEA	
1.1. Information of the inspected company for reference of the inspector Name of company: Name of the contact person: Contact person's role:	This data are only for internal use e.g. in case you need to forward this dossier to other NEAs e.g. for assistance.
2.1 Product name 2.2 EAN number(if relevant) 2.3 CN code 2.4 The product is a: ◯ Substance, Please specify CAS ◯ Mixture, Please specify category (PC) ◯ Article, Please specify category (PC) 2.5 Weight of imported products (kg):	Use the weight of shipment from customs declaration (net mass)

3.1 Origin of the product ☐ Dropdown list with all countries in the world + unknown 3.2 Consignor/Exporter Name: Address: Country:	Use country of origin from customs declaration
Section II: Reason for triggering checks by customs This section can be filled by customs or NEA (if customs informed them of the trigger)	
4. Reason of triggering for the selection of the shipment to check ☐ Risk profile ☐ Compliance history of the product ☐ Compliance history of the company ☐ In combination with other duties being checked ☐ Random ☐ Request from NEA during joint inspection ☐ Targeted controls in the framework of the pilot project	
Section III: Inspection of restrictions	
A. controls by customs This section can be filled by customs	

5.1 Did customs check the compliance with Annex XVII entry of the product?

◯ Yes (cooperation model 1.c). Go to question 5.2

◯ No. Go to question 6.1

5.2 Check for the compliance with Annex XVII entry, with documents provided by the company or by chemical analysis (multiple answers possible):

◯ with documents

With documents provided by the company

☐ test report provided by the company that confirms compliance/non-compliance with condition of the restriction

□ by an accredited laboratory

please specify the quality system (ISO 17025, GLP, etc) _____

□ by a non accredited laboratory

☐ other, (e.g. published results of studies done by other actors), please specify _____

◯ with chemical analysis

☐ doing an analytical screening investigation by the customs authority (e.g. XRF for metals)

☐ doing a chemical analysis by the customs authority

☐ Other, please specify _____

5.3 Which entries have been checked?

☐ Entry 23: Cadmium;

In what kind of product/article?

□ articles with plastic material

□ Jewellery

□ brazing fillers

□ Other, please specify _____

☐ Entry 27: Nickel

In what kind of article?

□ Jewellery □ Metal parts of clothes (rivet buttons, rivets, zippers, belts buckles…) □ Other, please specify ☐ Entry 63: Lead In what kind of article? □ Jewellery □ Other, please specify ☐ Other entry() : please specify entry from Annex XVII Dropdown list with entries in Annex XVII of REACH Specify Substance/Mixture/ Article	
B. controls by NEAs This section can be filled by NEA	
6.1 Did NEA check the compliance with Annex XVII entry of the product? ◯ Yes ◯ No. Go to question 7.1 6.2 Role(s) of the company under REACH (multiple responses possible): ☐ Importer ☐ Only Representative ☐ Downstream user(in case an OR has been appointed)	Note: Art. 3(11) of REACH Art. 3(13) of REACH Art. 8 of REACH

6.3 Check for the compliance with Annex XVII entry, with documents provided by the company or by chemical analysis (multiple answers possible):

◯ with documents

With documents provided by the company

☐ test report provided by the company that confirms compliance/non-compliance with condition of the restriction

□ by an accredited laboratory

please specify the quality system (ISO 17025, GLP, etc) _____

□ by a non accredited laboratory

☐ other (e.g. published results of studies done by other actors), please specify _____

◯ with analytical screening investigation or chemical analysis

☐ doing an analytical screening investigation by the NEA or the customs authority (e.g. XRF for metals)

☐ doing a chemical analysis by the NEA or the customs authority

☐ Other, please specify _____

6.4 Which entries have been checked?

☐ Entry 23: Cadmium;

In what kind of product/article?

□ articles with plastic material

□ Jewellery

□ brazing fillers

□ Other, please specify

☐ Entry 27: Nickel

In what kind of article?

□ Jewellery

□ Metal parts of clothes (rivet buttons, rivets, zippers, belts buckles…)

□ Other, please specify

☐ Entry 63: Lead In what kind of article? □ Jewellery □ Other, please specify ☐ Other entry- : please specify entry from Annex XVII Dropdown list with entries in Annex XVII of REACH Specify Substance/Mixture/ Article	
Section IV – Inspection of CLP duties	
A. CLP labelling controls by customs This section can be filled by customs	

7.1 Did customs check the labelling and packaging of the product during physical check? ◯ Yes ◯ No. Go to question 8.1	
7.2 Does the product (substance or mixture) has labelling indicating it is hazardous? ◯ yes ◯ no	Art. 17(1) of CLP
In case the answer is YES: 7.2.1.Is the label firmly affixed to the package? ◯ yes ◯ no (in this case involve the NEA)	Art. 31(1) of CLP
7.3 Are there any pictograms present on the packaging of the product (substance or mixture) indicating it is hazardous? ◯ yes ◯ no	Art. 19(2) of CLP
In case the answer is YES: 7.3.1. Are these pictograms according to CLP?  ◯ yes ◯ no	Label can contain one or more of these CLP pictograms. You only need to check if these pictograms are present.
7.3.2 Are these pictograms according to the provisions on labelling for the transportation of dangerous goods? 	The package can contain one or more of these pictograms (referred to as

◯ yes ◯ no In case the answer for both questions 7.3.1 and 7.3.2. is NO then involve the NEA.	"hazard labels") used for transport of dangerous goods. You only need to check if these pictograms are present.
7.3 Is the packaging of the substance or mixture leaking? ◯ yes (in this case involve the NEA) ◯ no ◯ not checked ◯ no relevant	Art. 35(1) of CLP
B. CLP controls by NEA This can be filled by NEA	
8.1 Did NEA check CLP requirements of the product? ◯ Yes ◯ No. Go to question 9.1. 8.2 Is the product intended to be supplied to the general public? ◯ Yes ◯ No ◯ No information available	
8.3 Does the importer need to provide an SDS as a supplier ? ◯ yes ◯ no ◯ Not checked	The SDS does not need to be available during import. The duty to provide SDS is only triggered later so at the moment of import it may not be clear that the importer is a supplier in the supply chain. The NEA could ask the importer whether they supply the substance/mixture to DUs.

8.4 Is a safety data sheet already available with the shipment? ◯ yes ◯ no	Article 31 of REACH The SDS does not need to be available during import. The duty to provide SDS is only triggered later so at the moment of import it may not be clear that the importer is a supplier in the supply chain. The lack of SDS at the point of import is not a breach of Art 31.
8.5 Was the classification of the substance/ mixture correct? ◯ yes ◯ no ◯ not checked	Article 18 and Parts 2-5 of Annex I of CLP Article 31 of REACH
8.6 Does the labelling in Section 2.2 in SDS correspond with a) the classification of the substance/ mixture in Section 2.1 of the SDSs and (b) to the label on the product? ◯ yes ◯ no ◯ not checked	Article 31, Annex II section 2 of REACH

8.7 Is the substance/mixture labelled in accordance with CLP? ◯ yes ◯ no ◯ not checked ◯ no relevant In case the answer is NO, please indicate the issue(s): ☐ substance/ mixture is not labelled ☐ substance/ mixture with is labelled according to old legislation – DSD/DPD (“old” label) ☐ Incorrect label size ☐ Missing or wrong contact information (name, address and/or telephone number) ☐ Missing nominal quantity (only if made available for the general public and not specified elsewhere on the package) ☐ Not in the official language ☐ General rules for the application of labels (please pick from below) ☐ The label is not firmly affixed to one or more surfaces of the packaging immediately containing the mixture ☐ The label is not readable horizontally when the package is set down normally ☐ The hazard pictogram does not stand out clearly on the label ☐ The label elements from Article 17 are not clearly and indelibly marked ☐ The label elements do not stand out clearly from the background and is not easily read ☐ Other, please specify: ☐ missing or wrong product identifier, ☐ Product name missing ☐ Listing of substances wrong or missing ☐ Hazard pictogram issues (please pick from below) ☐ Missing	

☐ The pictogram differs from the requirements for shape or color as set out ☐ Incorrect size ☐ Other, please specify: ☐ Signal word wrong or missing ☐ Hazard statements wrong or missing ☐ Precautionary statements wrong or missing ☐ Supplemental information wrong or missing	
8.8 Is the packaging of substance/mixture in accordance with CLP? ◯ yes ◯ no ◯ not checked ◯ no relevant In case the answer is NO, please indicate what was the problem: ☐ Integrity of the package was compromised (leakage etc.) ☐ Tactile warning was missing ☐ child-resistant fastening was missing ☐ Others, please specify	

Section V – Results of check by NEA or customs and enforcement measures taken by NEA This section can be filled by NEA or question 9.1 can be completed by customs, if model 1.c is used	
9.1 Has non-compliance been observed? ◯ Yes *In case the answer is yes:* Non-compliance requirements with entry(ies) (multiple answers possible): ☐ with Art. 67 and Annex XVII of REACH ☐ Entry 23: Cadmium; In what kind of product/article? □ articles with plastic material □ Jewellery □ Other, please specify ☐ Entry 27: Nickel In what kind of article? □ Jewellery □ Metal parts of clothes (rivet buttons, rivets, zippers, belts buckles…) □ Other, please specify ☐ Entry 63: Lead In what kind of article? □ Jewellery □ Other, please specify ☐ Other entry: please specify entry from Annex XVII ☐ with CLP duties ☐ classification ☐ labelling ☐ packaging ☐ with other REACH/CLP obligations (e.g. registration obligation for substances in mixture?) Please specify what other non-compliance was detected ☐ REACH non compliance: ☐ CLP non compliance: ◯ No	

9.2. Measures imposed due to non-compliance with REACH/CLP obligations subject to this project ☐ No measures ☐ Verbal advice ☐ Written advice ☐ Administrative order ☐ Fine ☐ Criminal complaint / Handing over to public prosecutor's office ☐ Others:	
9.3. The follow-up activities are: ◯ completed ◯ ongoing	
Section VI – Cooperation with customs and measures taken by customs This section can be filled by customs or NEA	
10.1 Which cooperation model between NEA and customs was used: ◯ 1.a Customs asks NEA to assess REACH/CLP compliance ◯ 1.b Customs asks NEA to assess REACH/CLP compliance for shipments identified through NEA risk analysis ◯ 1.c Customs directly checks REACH Restrictions compliance ◯ 1.d Joint checks by customs and REACH/CLP NEAs ◯ Customs conducted the checks of CLP without involving NEA (during physical check of goods)	

10.2 Customs procedure **applied after the REACH / CLP compliance was checked** ◯ goods **were released** for free circulation ◯ goods **were released** for free circulation after corrective measures ◯ goods **were released for free circulation** with corrective measures supervised by NEA after release ◯ goods **were not released** for free circulation **but** □ destroyed □ re-exported □ other (e. g. still in temporary storage), please specify	
Section VII - Communication with other countries - only in case of non-compliance This can be filled by NEA or customs	
11. Has this case been forwarded to other Member States? ◯ Yes ◯ No 11.1. If Yes, please specify to whom it was forwarded □ Focal point □ National coordinator for this project □ Customs authority □ Forum Member 11.2 If yes, please specify reason for forwarding □ Importer is from that Member State □ Product is intended for market in that Member State □ Other, please specify 11.3 If yes, please specify the tool used for communicating with other countries □ ICSMS □ PD-NEA □ Other, please specify	

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