

## REACH-EN-FORCE-3

Inspection and enforcement of compliance with registration obligations by manufacturers, importers and only representatives in close cooperation with customs

**Final report**

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Forum 22 Open session  
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# Introduction

- REF-3 Project: Objective and legal background
- REF-3 Project: Phase 1
- REF-3 Project: Phase 2
- REF-3 main findings
- Main conclusion and recommendations

## REF-3 Project: Objective and legal background

- Inspection and enforcement of compliance **with registration obligations** by manufacturers, importers and OR's in close **cooperation with customs**
- Obligations checked and eventually enforced within the project:

Article in REACH	Description
5	No data, no market
6	General obligation to register substances on their own or in preparations
8	Only representative of a non-Community manufacturer
12.2	Information to be submitted depending on tonnage
28	Duty to pre-register for phase-in substances

## REF-3 Project: Phase 1

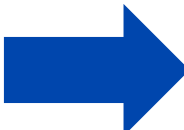
- Operational phase: 01 February 2013 – 31 August 2013
- Evaluation phase: 01 November – 31 December 2013
- Report of phase 1 with the WG recommendations: June 2014 (Published in [ECHA website](#))

### **Observations made by the WG (amongst others):**

- a number of customs declarations have led inspectors to actors with no direct REACH registration obligations due to the fact that an Only Representative (OR) had been established (an “importing DUs”)
- a number of customs declarations have led to cases with no REACH registration obligations, because of the of re-import exemption

## REF-3 Project: Phase 2

- Continuation of inspections and enforcement on REACH registration duties of manufacturers, importers and ORs
- Phase 2 provided additional focus on those imports, for which the REACH duty holder has no registration obligation as there is an OR established or as there is a re-import situation
- Added value: Phase 2, for the first time, recorded and collected inspection and enforcement information at importing DUs.



**Mechanism was created to collect information on the importing DU in Member State 1, with appointed OR present at Member State 2**

## REF-3 Project: Phase 2

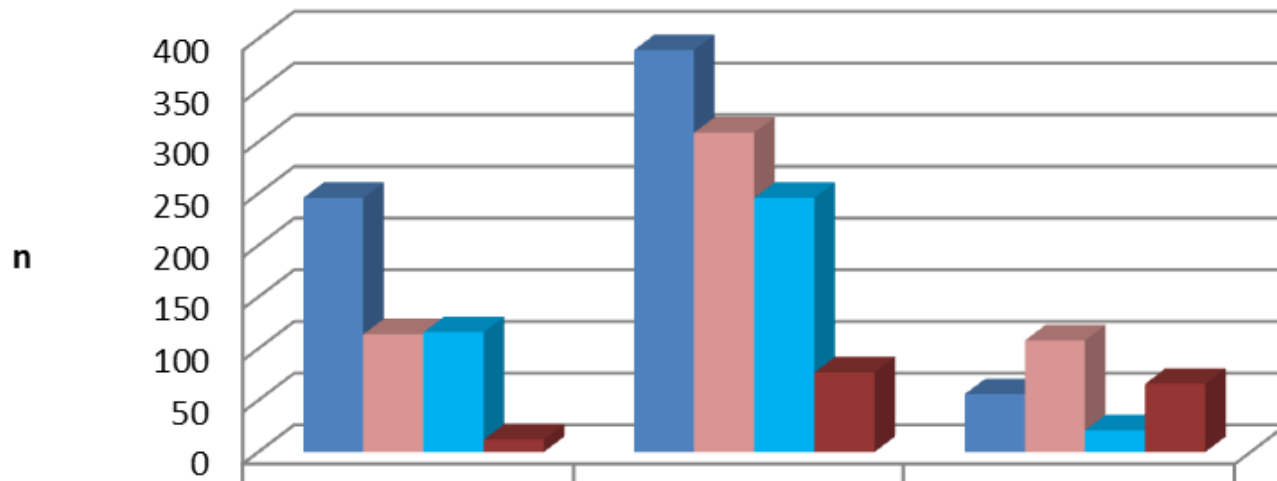
- Second Operational phase: 01 February – 30 November 2014
- Evaluation phase: 01 February - November 2015
- Final report: Adoption after Forum-22
- Publication of the **final report – December 2015**

## REF-3 main activities

	Phase 1	Phase 2	TOTAL
Member States participating	28	24	28
Companies inspected	528	641	1169
Substances checked	3065	2681	5746

# Distribution of company roles in the project

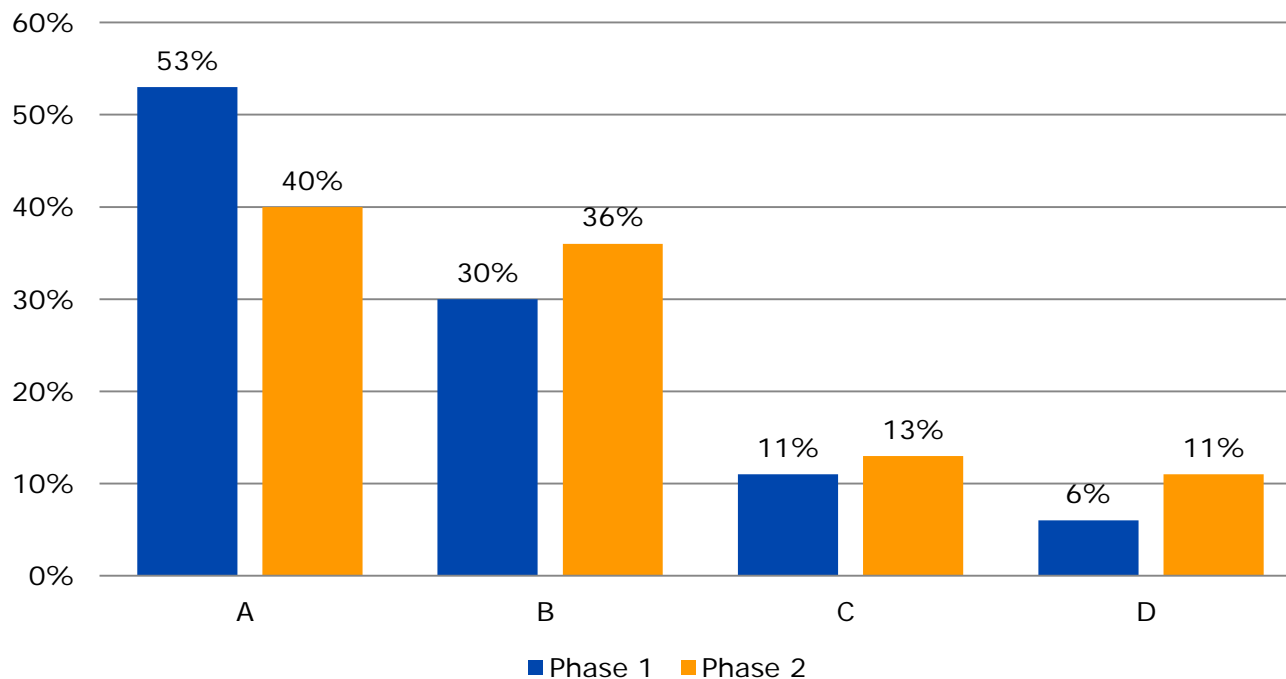
Distribution of observed roles and REACH role combinations



	M	I	OR
n P1 Role inter alia	246	389	56
n P2 Role inter alia	114	309	108
n P1 Role only	116	246	21
n P2 Role only	12	77	66



## NACE units in the project



NACE Unit	NACE definitions covered
<b>A (Manufacture of chemicals)</b>	Manufacture of chemicals and chemical and refined petroleum products
<b>B (Wholesale, retail)</b>	Wholesale, retail, transport and storage,
<b>C (Manufacture of non-chemicals)</b>	Manufacture (other than chemicals) and mining, NACE Sections B and C
<b>D (Other)</b>	Construction, energy/water supply, technical activities

# Cooperation with Customs

- In all participating countries, Customs provided information to the inspectors to orient their investigations towards importers



**“Risk oriented” - enforcement approach**

- Good cooperation with Customs authorities

# Cross border investigation (Phase 2)

MS 1

- Importing DU
- Information on OR (in MS2) collected

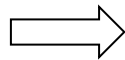
MS 2

- Appointed OR
- Relevant OR in the same supply chain?
- Information on importing DU correct?

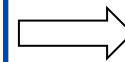
MS 1

- Feedback to inspector of importing DU
- Follow-up action, if needed

Around 630  
investigations at  
**importing DU**

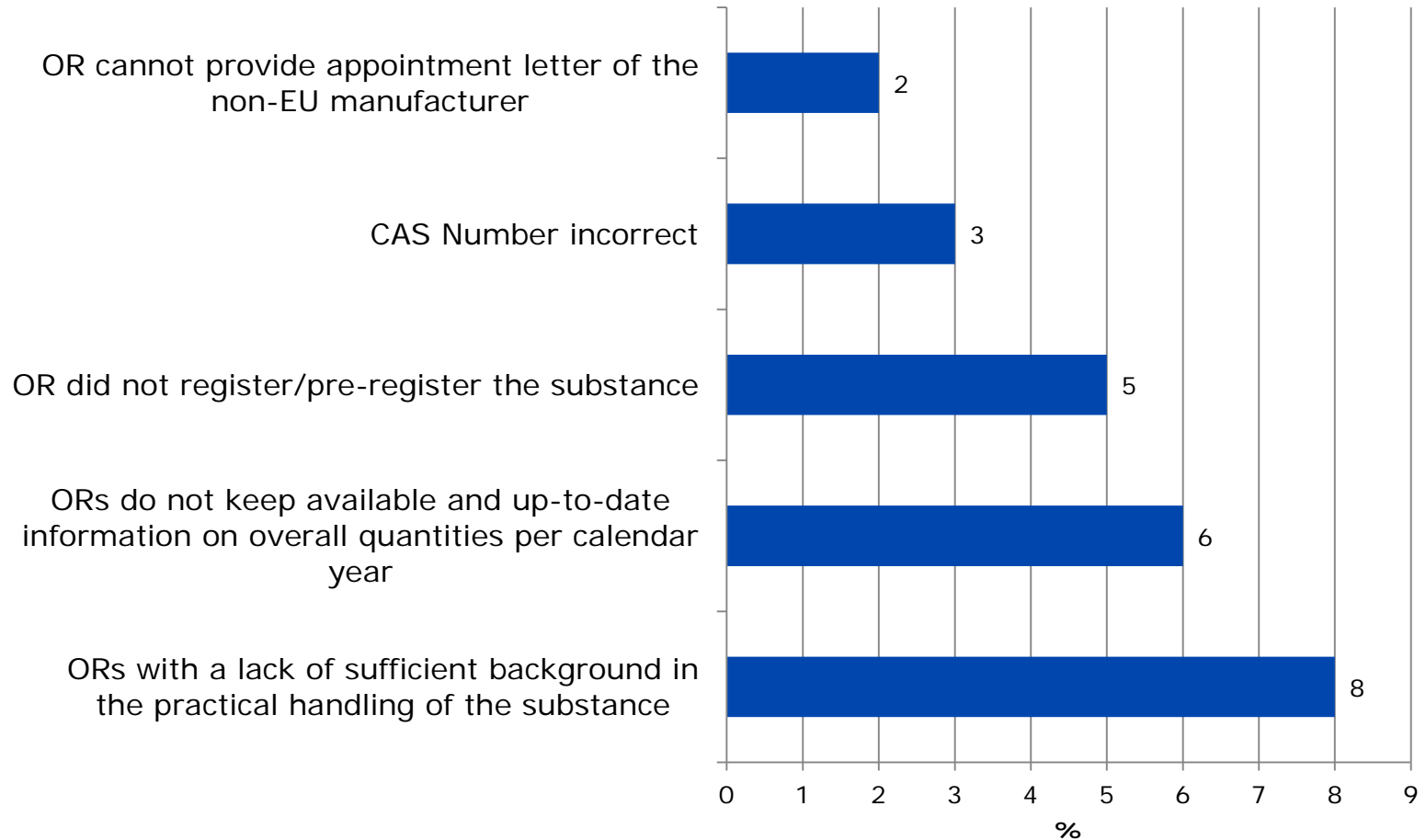


**104 ORs**  
investigated

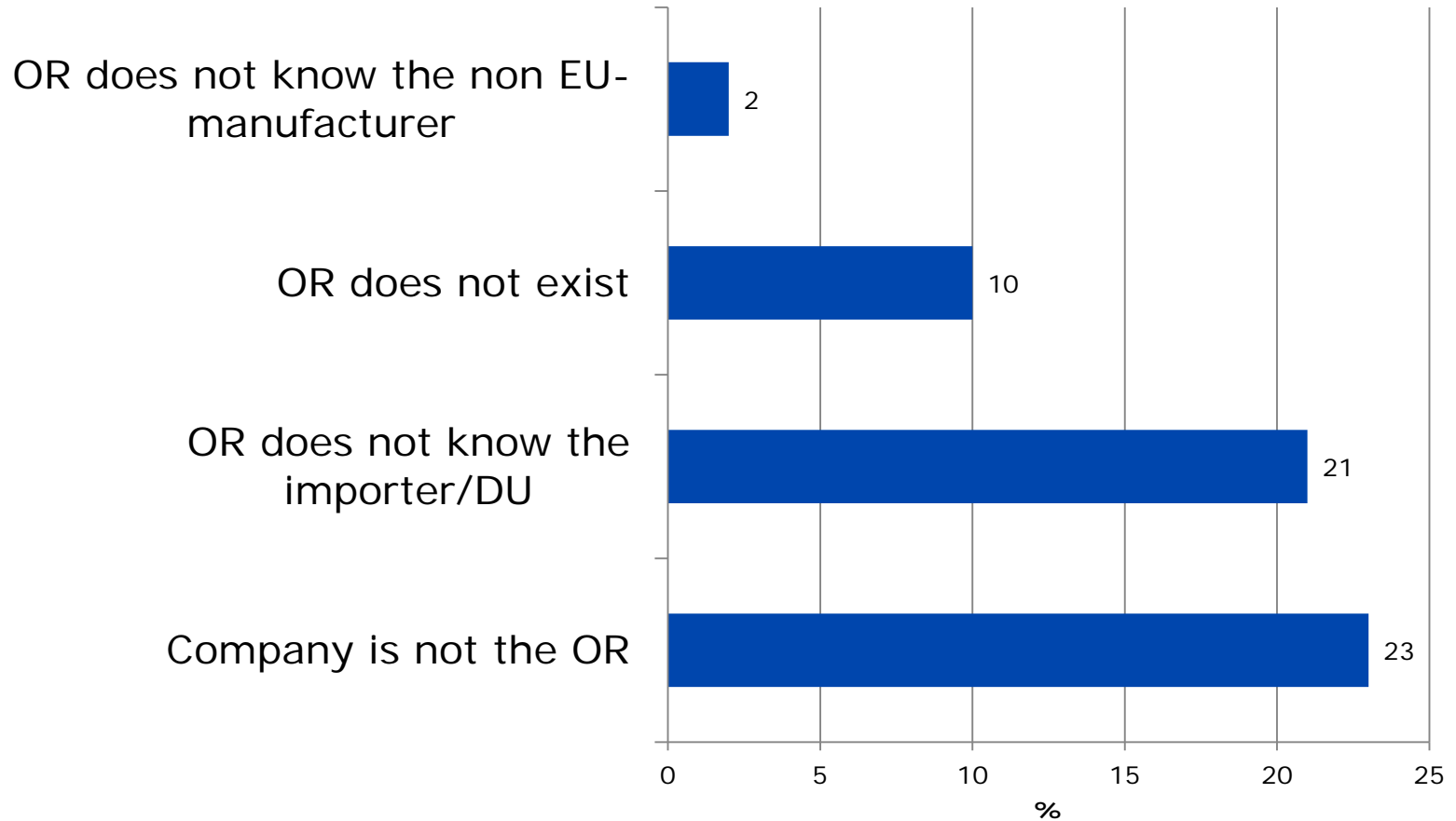


**32%**  
non-compliant

## Inspector's observations in the OR's information chain



## Inspector's observations in the OR's information chain



Incompliance Rate (%)	Phase 1	Phase 2	Overall
<b>Inspected companies</b>	14%	12%	13%
<b>Inspected companies with missing substance registrations</b>	11%	9%	9%
<b>Inspected companies with all substance registrations missing ("free riders")</b>	3%	2%	2%
<b>Inspected substances</b>	5%	5%	5%
<b>Inspected substances with a missing registration</b>	3%	3%	3%

<b>Company size</b>	<b>Proportion of non-compliant companies within each company size group</b>
Micro	18%
Small	14%
Medium	12%
Non-SME	8%

Role	Proportion of non-compliant companies within each role
Manufacturer only	7%
Manufacturer inter alia	6%
Importer only	19%
Importer inter alia	15%
OR only	34%

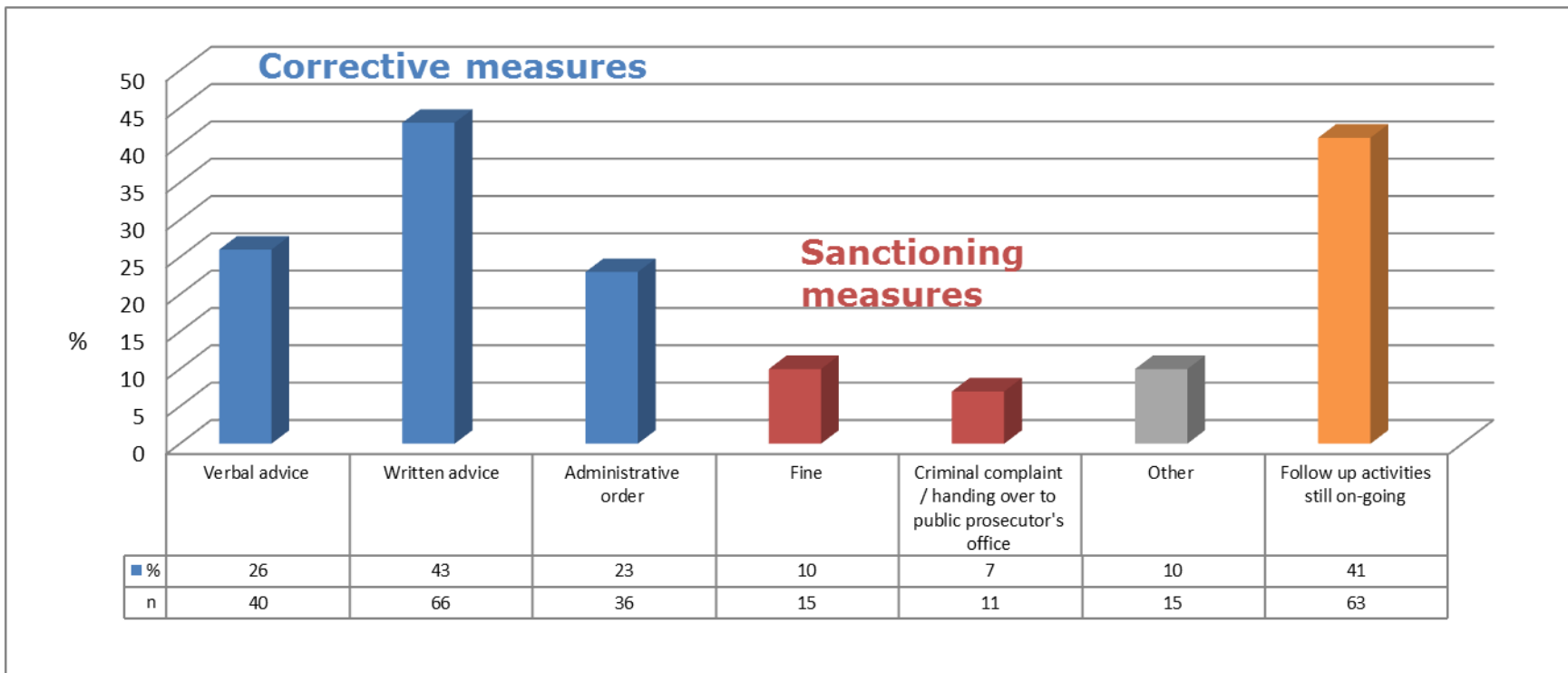


# Registration non-compliance

Economic sectors	Distribution of non-compliance rates for companies
A	34%
B	40%
C	14%
D	12%

NACE Division		Distribution for non-compliant companies (non-compliance rate)
20	Manufacture of chemicals and chemical products	27%
23	Manufacture of other non-metallic mineral products	3%
24	Manufacture of basic metals	2%
46	Wholesale trade, except of motor vehicles and motorcycles	28%

# Measures taken in case of non-compliance




# Main conclusions – overall project

- Overall 13% non-compliance observed
- No indication of systematic breaches
- Number of registration “free-riders” is low (2%)
- Importers have higher risk of failing their registration duties
- OR have highest risk of failing their registration duties
- Several inconsistencies in the OR’s information chain

## Industries and industry stakeholders need to address the high non-compliance rate for

- Only representatives
- Importing DU
- Importers
- SMEs/micro sized enterprises
- Actors which are related to the chemical industry and distribution sectors

 Importing DU need to be advised to more directly cooperate with and to watch out for their ORs

Thank You.

