MINUTES

1. Introduction and welcome to Consortium (slides 1 – 6 of Annex 2).

1.1. Confidentiality and Competition Law. The attendees were reminded on their commitment to comply with Confidentiality and Competition Law provisions. A list of Do's & Don'ts is available on request to the Secretariat.

1.2. Tour de table and apologies. The list of participants is available in slide 3 of Annex 2. Six Members out of seven are represented at the meeting (Eurotungstene representative was excused).

1.3. Introduction to Zuzana Hugonin, Scientific Manager. Zuzana Hugonin (PhD in Inorganic Chemistry) has been engaged as Scientific Manager of the EPMF since the 1st of September 2008, as agreed at the December 2007 Assembly meeting (her position is part of the Generic costs of the Consortium, shared equally by all Members of the Consortium). She will attend three weeks training in Toxicology at the University of Surrey and the University of Hull in order to complete her professional profile for the position. 100% of her time will be dedicated to Consortium activities and, in particular, to technical discussions:

- Together with the Secretariat & Trustee, she will constitute a link between the Consortium and the Consultants to whom the Consortium metal projects have been assigned.
- She will work with the Technical Advisory Panel (TAP) and the different metal work groups in order to evaluate the reports and recommendations prepared by the consultants and act as a neutral interface between Members during technical debates.

1.4. Revision of pending action points and approval of minutes of last meeting. A recap on the action points of the last meeting is presented in slide 4 of Annex 2. Several of these items were accomplished and some will be resolved today.
Slide 5 of Annex 2 presents a comparison table to evaluate the cost, time, and administrative burden involved in the preparation of a Registration Dossier for a substance in the lowest tonnage band (1-10 tonnes/year), versus a Registration Dossier for an isolated intermediate in one of the three lowest tonnage bands (< 1000 tonnes/year). This comparison is of interest to sectors working with small tonnages only, such as the Rhenium sector.
Considering the number of unknowns involved in REACH at this early stage, it is sometimes difficult to clearly calculate the difference between both routes. However, the uncertain interpretation of "any existing available information" coupled with the need to guarantee strict control up and down the supply chain when following the intermediate route is discouraging for potential registrants. Moreover, although intermediates are exempt from authorisation, it is unlikely that Rhenium and Rhenium materials will be prioritised for authorisation would they be registered as substances.
It was clarified that nothing in REACH prevents one same material to be registered as a substance by one registrant and as an intermediate by another. It was therefore concluded that this is a registrant's decision; Members of the Consortium are invited to make their decision, and adjust their Substance and tonnage band declaration to the Consortium accordingly before the end of 2008.
The Minutes of the last meeting were approved.

1.4.1. Election of a Co-Chairperson. It was not yet considered necessary to appoint a Co-Chairperson for the Rhenium Work Group. This is to be discussed again at the next meeting.

1.5. Approval of the Agenda. The Agenda was approved (Annex 1).

2. <u>Rhenium inventory.</u>

2.1. Adjustment of Rhenium inventory. The adjusted inventory was presented to the attendees. For each material, the number of Members having declared it is indicated in the column corresponding to each tonnage band. Only Ammonium Perrhenate (APR) has been declared once in the 10-100 tonnes/year band. This triggers the need for a Chemical Safety Report (CSR) to be conducted. The cost of such CSR shall be bared by that(ose) registrant(s) having a need or interest in attaching such CSR to their Registration Dossier.
One of the Members of the Consortium, who wishes to remain anonymous for the time being, has submitted a list of Rhenium materials to the Trustee, who added these to the indicative list. Only Calcium Perrhenate has been added to the original list.
Where materials have been declared as substances, an 'S' has been added next to the number, and where the material has been declared as an intermediate, an 'I" has been added.
At the bottom of the list, two complex materials are listed. They will be discussed under item 2.3 below.
The indicative list will not be closed so as to enable further adjustments of the scope where and as necessary, according to the procedure laid down in Appendix 4 of the Precious Metals and Rhenium Consortium Agreement. The idea behind this procedure is to be in line with Competition Law so as to avoid any "automatic" exclusion from the Consortium, coupled with the need to ensure a cost-effective and on-time REACH compliance, therefore, a successful accomplishment of the Rhenium project.
Should existing or new Members wish to add Rhenium materials to the indicative list, the Rhenium Work Group (Re WG) and the TAP shall have the possibility to evaluate the impact of such addition to the proper progress of the Rhenium project and provide recommendations to be supported by the Management Committee and voted by the concerned Sub-Assembly of the Consortium, i.e. the Rhenium Sub-Assembly. The later a material is declared to the Consortium, the less compatible it is likely to be with the Rhenium project, and the more likely it will be rejected (based on objective, transparent and non-discriminatory criteria, as provided in REACH).

2.1.1. Potassium perrhenate (PPR). None of the Members of the Consortium have so far declared PPR to the Trustee. This means that this material is so far not included in the scope of the Rhenium project. Should it be declared in the future by an existing or a new Member it is unlikely that it will cause any significant disturbance to the Rhenium project as it is an intermediate (requiring a reduced Registration Dossier containing "any existing available information") for which information can eventually be read-across from other perrhenates which are already included in the indicative list. SEKOM is informing any known PPR manufacturer about the existence of the Consortium so as to ensure an early membership. It seems as this material is not yet manufactured or imported in volumes of 1 tonne or more, which therefore involves no REACH obligations. Would this volume increase so as to reach or exceed the 1 tonne/year threshold, the concerned entity could benefit from "late pre-registration" provisions as laid down in Article 28(6)[1] of REACH.

[1] "*Potential registrants who manufacture or import for the first time a phase-in substance in quantities of 1 tonne or more per year or use for the first time a phase-in substance in the context of production of articles or import for the first time an article containing a phase-in substance that would require registration, after 1 December 2008, shall be entitled to rely on Article 23 provided that they submit the information referred to in paragraph 1 of this Article to the Agency within six months of first manufacturing, importing or using the substance in quantities of 1 tonne or more per year and no later than 12 months before the relevant deadline in Article 23.*"

2.2. Confirmation of proposed categories. It was reminded to attendees that some adjustments in pre-registration cannot be done without the approval and intervention of the ECHA. In order to avoid such situation, Members are invited to agree on a harmonised manner to categorise their materials so as to be able to speak with one voice in the SIEF.
Based on the REACH definitions presented in slides 9 to 11 of Annex 2, the attendees confirmed that all substances and "simple" intermediates listed in the current Rhenium indicative list are mono-constituent, containing at least 80% of a main constituent.
It was highlighted that Sodium rhenate can be commercialised in a form which can contain up to 50% Sodium carbonate. It seems as these two compounds do not react and that the commercialised form is a preparation under REACH, thereby requiring two separate registrations of two individual mono-constituent substances. The concerned Member might be interested in contacting other Sodium carbonate manufacturers and importers through CEFIC or within the SIEF for Sodium carbonate.

2.3. Clarifications on "complex" materials:

2.3.1. Ion-exchanger. This will be discussed further with the concerned Member. There are possibilities for this ion-exchanger to have been notified and therefore no registration would be required. The Re WG will be kept informed accordingly.

2.3.2. Nickel Alloy (Scrap). Claire Mattelet, from the Ni consortia, was invited to this part of the discussion in order to compare views on how best to treat this material under REACH. Moreover, a document on waste and recovered substances to be discussed at the 5th Meeting of the Competent Authorities (25-26 September 2008) was used as a basis for this discussion (Annex 3)
These materials were described as a kind of secondary raw material, residual or left-over from the manufacture of Ni alloy, which composition is similar to the Ni alloy itself, although it can sometimes also contain ceramics and silica. These leftovers are re-melted in order to obtain a homogeneous material from which Rhenium will be recovered. The material can be placed on the EU market under its original form or re-melted (Annex 4).
This material is considered to be a waste by German authorities but it is not the case all over Europe. There is therefore a need to prepare a Registration Dossier for this material in order to be REACH compliant. Key action points are:

- How to name this material in a harmonised manner? Terms such as "residue", "residual", "by-product" or "waste" [2] should be avoided.
- How to categorise this material under REACH? Is it an intermediate for which strict control can be ensured? Is it a substance? Would it be considered as a substance or as an intermediate, it would certainly correspond to a UVCB[3] as its composition is highly variable. Is it a special preparation? In this case, each individual component reaching the 1 tonne/year of the material would require registration.

[2] According to Article 2(7)d of REACH, materials resulting from recovery processes which are the same as previously registered substances do not need to be registered again. For instance, recovered rhenium should not be registered if rhenium obtained from primary sources has been registered before. However, this would apply to Rhenium and the other components of the material if it reaches a waste status from which substances can be recovered. If the material is never a waste, this Article of REACH can not be applied.
[3] UVCB means: "Substances of Unknown or Variable composition, Complex reaction products or Biological materials. UVCB substances cannot be sufficiently identified by their chemical composition, because: (a) the number of constituents is relatively large and/or; (b) the composition is, to a significant part, unknown and/or; (c) the variability of composition is relatively large or poorly predictable" (RIP 3.10). Whether it is (a), (b) or (c) which triggered the UVCB category for a certain PGM shall be clarified. Indeed, its seems as some Competent Authorities might view the UVCB category as a doubtful category, hiding "unknown" substances for which safe use is difficult to predict and ensure.

- Can this material be considered as a phase-in material so that it can be pre-registered and benefit from deferred registration deadlines? If it has no EINECS number, it is not a phase-in substance as per Article 3(20)a of REACH. If it has been imported, it is deemed to be placed on the market and can not fulfil Article 3(20)b. Finally, if it has not been notified under Directive 67/548/EEC, it can not be considered as phase-in as per Article 3(20)c either. It was recommended to find out with Euroalliages about how phase-in status will be demonstrated for alloys which do not fulfil any of the criteria for phase-in of Article 3(20) and eventually apply this to the current situation[4]. Moreover, this issue is of concern for precious metals refinables as well; any strategy developed for precious metals refinables should be considered for this case too.

A teleconference will be organised to resolve the above questions once the responses have been received from Euroalliages and Eurométaux (Joeri Leenaers, EHS Manager will attend the Competent Authorities meeting on 25-26 September in Brussels) but before mid-October so as to allow the finalisation and circulation of the Pre-registration leaflet.

3. Update on Rhenium project/work programme.

3.1. Feed-back from Members on data request. Three Members have sent their available information on Rhenium to the Trustee, who sent these to WCA on the 4th of September. It seems as historical data on rhenium exist in Chile but it is unknown whether or not it would be considered as valuable for the rhenium project. It was agreed that no data should be discarded by default and that anything becoming available should be sent to the Trustee and to WCA. For instance, publications of 1964 were used in the Nickel Risk Assessment.

3.2. Update on Phase I of the Re project. WCA/BIBRA have been appointed as consultants for the Rhenium project, as a satellite branch to the PGM project. The latest proposal is available in Annex 5. Although Phase I has been launched already, no contract has been signed with WCA/BIBRA yet as the contractual terms and conditions have not yet been completed with each party's comments (Annex 6). It was agreed to determine a finalisation date to ensure the on-time conclusion of the Rhenium project and to include this date (December 2011) in the contract with WCA/BIBRA for more certainty.

4. Any other business.

4.1. Pre-registration recommendations. The Pre-registration leaflet was presented to the attendees and they were invited to share any suggestion or comment on this document with the Secretariat (Annex 7).

4.2. Pre-registration/SIEF experiences. All six Members represented at the meeting completed the completed the pre-registration form distributed at the beginning of the meeting. All have already accessed the REACH IT portal and five have established a user account on the latter. Four of this five Members have already pre-registered through the REACH IT while one has already pre-registered using the IUCLID 5 plug-in bulk submission tool. So far none of the pre-registrants have faced any complication when pre-registering. Everyone was invited to share experiences with the Secretariat so as to improve the above Pre-registration leaflet.

[4] **Post-meeting note:** Alloys which are pre-registered as substances rather than as special preparations are actually pre-registered as multi-constituent substances (MCS). This means that when pre-registering, they do not require an EINECS number but the constituents of the MCS need to be listed and each one should have an EINECS. This is therefore not comparable to pre-registering a UVCB for which an EINECS number is mandatory to demonstrate the phase-in status.

4.3. Known Rhenium and/or Rhenium compounds pre-registrants. It was agreed for the Secretariat to draft a template letter to be sent by one Member of the Consortium in each SIEF to the non-Consortium pre-registrants. The aim of this letter is to inform pre-registrants on the existence of the Consortium, key contact and online link, without breaching any confidentiality barrier (the information contained on the pre-SIEF webpage cannot be shared with third parties, i.e. Consortium Members can not share any information they obtain from the pre-SIEF webpage with the Consortium's Secretariat). In addition to this, Members are invited to keep the Secretariat informed on any activity taking place at SIEF level in order to better prepare the future link between the pre-SIEF and the Consortium.

5. Conclusion and next meetings.

The following documents are available on request to the Secretariat:

- Template Agreement for Only Representatives
- Eurométaux' view on the definition of "Importer" under REACH
- DEFRA's (UK REACH Competent Authorities) position on "legal entity"

It was agreed to organise the next face-to-face meeting back-to-back with the Assembly meeting, on the 4th of December 2008.

Annexes:

1 – Agenda
2 – Slides presented at the meeting
3 – Document on waste and recovered substances
4 – Photographs of Ni alloy manufacture residuals
5 – WCA/BIBRA proposal for the Rhenium project
6 - WCA/BIBRA contractual terms and conditions
7 – Pre-registration leaflet