



Department of Trade and Industry

ATEX Stakeholders

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Dear ATEX Stakeholder

ATEX STAKEHOLDER REPORT – JANUARY 2007

This is the ATEX Stakeholder Report that covers ATEX business that has taken place in the second half of 2006 and culminates with the Administrative Coordination (ADCO), Working Group and Standing Committee meetings held in Brussels at the end of the year.

Before I proceed with reporting the main items of business over the past six months, I wish to inform you that a new member of staff - Denis Clarke - has joined the ATEX team at DTI. He is currently undergoing his induction process and will be becoming more involved with day-to-day business as the first part of this year progresses. No doubt you will extend a warm welcome to Denis as he joins the ATEX community and I am sure that he looks forward to meeting you at the various events that we will be attending this year.

My reports on the second of 2006's ATEX Working Group and Standing Committee meetings are attached to this report as Annex I.

As you can see, a large part of the business of the Working Group was dominated by matters related to standards. The number of harmonised standards related to 94/9/EC continues to grow. However, I feel that I must remind you that there cannot be any presumption of conformity until the standard has been published in the Official Journal. It has been noted that there can sometimes be a significant delay in the standard being listed by CEN and publication in the OJ. The Commission is looking into this matter but until this matter is resolved, users of standards must regard

publication in OJ as an indication of when presumption of conformity begins.

Following my last report, that contained matters related to EN1755:2000 (Safety of Industrial Trucks) I can now inform you that this matter has reached a conclusion. Following a discussion at the Working Group, the Commission and the ATEX CENELEC consultant both agreed with UK's findings that Annex ZA of this standard was not fully addressing the Essential Health and Safety Requirements of 94/9/EC and thus there could not be presumption of conformity. The Commission has instructed the relevant committee to review the standard and submit changes through CEN. In the interim, my advice for users of EN1755:2000 would be to directly review the ESHRs of 94/9/EC. I would like to thank my colleagues at HSE and HSL for their technical input into this matter and I would also particularly like to thank the stakeholder who initially brought this matter to my attention and their cooperation throughout the ensuing work.

You may wish to note that the Standing Committee met at the end of this year. The two items of business concerned the formal ratification of consideration papers on Petrol Pumps and Fork Lift Trucks from Working Group – thus giving them the same status as the published Guidelines – and the incorporation of an ExNBG sheet into the Guidelines. This follows the ongoing work by the Commission to incorporate various ExNBG sheets into the Guidance. This means that there will be a Third edition of the Guidelines will be published shortly. The current version can be accessed at: <http://ec.europa.eu/enterprise/atex/guide.htm> and I would strongly advise you to ensure that you update any links and paper copies as soon as the Third Edition is published.

As you may be aware, it is not normal to report on the full proceedings of the ADCO meetings as they cover commercially sensitive matters in order to allow National Authorities to coordinate and exchange information. However, I think it fair to inform you all that market surveillance of ATEX goods is a topic that remains very much near the top of the agenda. This move away from implementation of the Directive to market surveillance is not only a reflection of the natural process that Directives undergo but also as a result of the proposed outcomes of the New Approach Review. Two matters that I think I wish to report you are:

- **“Goods Manufactured for Own Use”** – The Commission has confirmed that such goods are within scope of the 94/9/EC and as such, are subject to any necessary third-party assessment procedures. The Commission is encouraging Member States to consider how such items could be subject to market surveillance activities in the future. Such items should not be confused with “installations” which remain outside the scope of 94/9/EC. For further information on installations, see Section 5.2.2 of the 2nd Edition of the ATEX Guidelines; and
- **“In-scope or Out-of-Scope”** – Member States have recognised that there are several types of goods where it is difficult to

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determine if 95/9/EC is applicable to them. Some guidance for manufacturers and end-users is currently being drawn up, using examples and the reasoning behind the good's category. This means it may be necessary for me to contact you for information on certain items and I would be grateful for your cooperation in this matter.

You may wish to note that the 2007 meetings of the Working Group have been scheduled for 28 June 2007 and 29 November 2007. The next meeting of the ADCO will take place on 21st & 22nd June 2007. Thus, it is my intention to publish stakeholder reports shortly after these dates. I will also endeavour to ensure that any interested parties are consulted on Working Group business prior to the meetings.

Regards

Rick Holyomes

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ATEX Working Group/Standing Committee – November 2006

Working Group

1. Approval of the draft agenda (ATEX_WG/06/2/01 rev. 1)

The Agenda was adopted.

2. Approval of the draft minutes of the last meeting on 29 June 2006 (ATEX_WG/06/2/02)

The minutes were approved with no changes.

3. Directive 94/9/EC: Interpretation questions:

- **Gas detectors with measuring devices - including content of ExNB/02/112/CS (ATEX/06/1/05 & Oral Report from Chair ExNBG)**

This item was deferred until the next meeting.

- **Flameproof enclosures - based on ExNB/00/035/CS (ATEX_WG/06/2/03)**

Following discussion, this item was referred back to ExNBG for further consideration.

- **Interface to the ATEX workplace "user" Directive: revised paper to be proposed as Consideration Paper (ATEX_WG/06/2/04)**

It was agreed to post this paper to CIRCA for a 4-week consultation period.

- **Water through barriers by the ATEX CEN/CENELEC Consultant (ATEX_WG/06/2/05 & ATEX_WG/06/2/06)**

It was agreed to incorporate this item in future editions of the ATEX Guidelines.

4. Progress on standardization:

- **ATEX Harmonized Standards Lists on EUROPA**

COM reported that, due to logistical problems, there would always be a delay between a standard being published on the CEN website and its publication in the Official Journal. However, there could be no presumption of conformity until the standard had been published in the OJ.

- **Standardisation work in CEN TC 305 (Oral Report by CEN TC 35 Chairman)**

The Chair of CEN TC35 reported that a further 25 standards had now been published.

- **Standardisation work in CENELEC TC 31 (Oral Report by CENELEC TC 31 Chairman)**

The Chair of CEN TC31 reported that there had been no technical deviation between the various EN/IEC/ISO standards in the latest round.

- **Report by the ATEX CEN/CENELEC Consultant (ATEX_WG/06/2/08)**

The report was noted with no discussion.

- **Revision of Harmonised Standards (ATEX_WG/06/2/13)**

There was general support for this item.

- **Remarks on EN 1755:2000 (Safety of industrial trucks) (ATEX_WG/06/2/09 & ATEX_WG/06/2/10)**

Following an introduction from UK, the CENELEC consultant stated that he agreed that EN1755 should be reviewed. CEN were informed that they had a two-week period in which to commit to reviewing the standard or the UK could proceed with a formal 98/34 procedure. It further advised UK to begin the process and that it could be withdrawn once a response from TC150 had been received.

- **Concerns by Norway about draft CENELEC standard on "safety devices" prEN 50495 based on IEC 61508 (ATEX_WG/06/2/11)**

CENELEC indicated that they agreed with NOR's concerns as detailed in the paper and confirmed that the TC is treating the matter seriously

- **Update on possible mandate on Pumps of natural gas filling stations - update of prEN 13638 (ATEX/06/1/12 & Oral report by CEN)**

It was noted that this paper would be uploaded onto CIRCA for comment.

- **Update on a proposal on "International legal requirements for explosion protection" submitted to UNECE (ATEX/06/1/11 & Oral report by DE)**

GER introduced this item by stating was an opportunity to include ATEX standards in this scheme. During a discussion, COM expressed concern as to how the scheme would fit into the current EU legal framework and concluded by stating that COM was not prepared to commit any further without resolution of any legal and other issues.

5. Report by Chair ATEX ADCO (Oral report by DK)

The Chair of ADCO provided an oral report of the previous day's business.

6. Co-operation between Notified Bodies

- **Oral report by ExNBG Chairman**

The Chair provided an oral report of the previous ExNBG meeting.

- **ExNBG Clarification Sheets to be noted Lists on EUROPA and CIRCA**

The sheets were noted by the meeting.

- **Modification of ExNB/00/28/CS as proposal to be incorporated in the ATEX Guidelines (ATEX_WG/06/2/12)**

There was a short discussion on this item and it was agreed to incorporate the ExNBG sheet into the ATEX Guidelines.

7. Any other business

There was one item of AOB. The Chair of EXNBG asked clarification if it was possible to any good's instructions to be in any format other than paper ie as CD-ROM. COM confirmed that only paper instructions were permissible.

8. Dates of Next Meetings

It was noted that the next Working Group meetings were due to be held on 28 June 2007 and 29 November 2007.

Standing Committee

0. Welcome

COM welcomed the delegates and stated that only representatives from Member States were entitled to vote at this point of the meeting. A head-count was conducted: there were 15 Member States present (with 13 being a quorum).

1. Approval of the draft agenda (ATEX_SC/06/2/01 rev. 1)

The agenda was approved with no changes

2. Update of the ATEX Guidelines: inclusion of the content of ExNBG Clarification Sheet (ATEX_SC/06/2/02)

This item was approved with no discussion.

3. Publication of revised Consideration Papers by the SC:

- **Fork Lifts Trucks**

This item was approved with no discussion;

- **Petrol Pumps**

This item was approved with no discussion.

4. Any other business

There was no other business.

Rick Holyomes

January 2007