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## **ATEX Stakeholder Report – July 2008**

Dear ATEX Stakeholder,

Once again there have been some changes to the ATEX team here in BERR. As many of you will already know, Rick Holyomes left the team earlier this year on promotion to another part of the Department and I am sure that, like me, you will wish him success in his new role. Until Rick's successor is in post – which ought to be by the end of the summer - I will continue to have responsibility within BERR for the ATEX Directive.

You will find my note of the recent meeting of the ATEX Standing Committee and Working Group, held in Brussels on 25 June, forming Annex One of this report. There were a couple of items of interest which I would like to touch upon:

### *Gas Detection Apparatus:*

As many of you will know, this issue has been discussed at length over the past 2 years and a number of differing views have emerged both in the UK and in Germany. Discussions have been focussed on a clarification sheet on the subject but, recently, Germany proposed to scrap the sheet as it viewed it as unnecessary and instead amend the Guidelines to remove confusion about the issue. The UK opposed the proposal to amend the Guidelines expressing concern that any changes ought to be considered fully before implementing. However, Germany's proposal was supported by all Member States except Austria and the UK and the Guidelines will subsequently be amended. Practically, this means that gas detectors will need to be assessed on a case by case basis to determine whether they are in or out of scope.

### *Application of ATEX Guidelines 3.3:*

The Commission has recognised that there is a need for clearer guidance in this area but the proposal as it stands needs further refinement. The UK has volunteered to work on a revised draft in cooperation with the Netherlands. This revised document will be circulated for comment by Member States ahead of the next Working Group meeting.

The next meetings of both Working Group and ADCO are due to take place in December 2008.

Finally, the new consolidated lists of harmonised standards were published earlier this year and can be found at

<http://ec.europa.eu/enterprise/newapproach/standardization/harmstds/reflist/atex.html> .

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# Annex One

## ATEX Directive – BERR Report of Standing Committee and Working Group Meeting – 25 June 2008

### Standing Committee

#### 0. Welcome

The new Chair opened the meeting and welcomed members. The Chair confirmed that the group was quorate for voting. 16 member States were represented.

#### 1. Approval of the Draft Agenda (ATEX\_SC/08/1/01)

The Agenda was approved without change.

#### 2. Update of the ATEX Guidelines:

##### ***Re-draft ATEX Guidelines 10.3 EC Type Examination Certificate and the responsibilities of stakeholders*** (ATEX\_SC/08/1/03)

The Commission introduced this item. There were no comments and the re-draft was approved for publication in the Guidelines.

#### 3. Publication of Consideration Papers:

- ***Application of the ATEX Directive 94/9/EC to transportable, pressurised cabins (“modules”) intended for use in hazardous areas*** (ATEX\_SC/08/1/02)

The Commission introduced this item. There were no comments and the paper was approved for publication.

- ***ExNBG Clarification Sheets: Status and use*** (ATEX\_SC/08/1/04)

The Commission introduced this item. GER suggested that standards be included in clarification sheets. The Commission explained that it would be best not to include standards. The paper was approved for publication.

#### 4. Any other business

There were no other items of business. The outcome of the Standing Committee will be made known to the European Parliament.

## Working Group

### 0. Welcome

The Chair welcomed attendees.

### 1 & 2 Agenda and Minutes (ATEX\_WG/08/1/01 and ATEX\_WG/08/1/02)

The agenda was approved without change.

The minutes were approved with an amendment from UK under point 3 concerning gas detectors.

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

- a. **Gas detection apparatus:** Draft Consideration Paper (4-weeks circulation paper) (ATEX\_WG/08/1/11, ATEX\_WG/08/1/11-1, ATEX\_WG/08/1/11-2, ATEX\_WG/08/1/11-3)

The Commission introduced this item and explained that discussions had been ongoing for a very long time and the matter ought to be concluded. Both the UK and Orgalime had introduced amended papers. GER had proposed that a consideration paper is not necessary but that a simple amendment to the existing Guidelines would remove the difficulties. The GER proposal to remove the word “*direct*” was argued against by the UK who pointed out that even a small change can have far reaching effects and ought to be considered more carefully. There was a discussion about what exactly was meant by the use of the word “*direct*”. The UK proposed that the Commission set up an expert panel to reach a decision. The Commission agreed with the UK in suggesting that the Guidance should remain unchanged. However, Member States were asked to decide which position to support and only AUS agreed with the UK view.

Consequently, the clarification sheet has been abandoned and the Guidance will be amended in line with the GER proposal. Gas detectors are to be treated on a case by case basis to determine whether they are in or out of scope.

- b. **Provision of test results with EC-Type Examination Certificates** - Proposal of text to be inserted in the ATEX Guidelines (4-weeks circulation paper) (ATEX\_WG/08/1/03, ATEX\_WG/08/1/03-1, ATEX\_WG/08/1/03-2)

The Commission introduced this item and explained the background. UK explained its redraft with the addition to the text to include analysis. GER proposed that the text be included under 10.2 of the Guidelines. There was discussion about whether to use the word “*should*” or “*shall*” in the text and a vote was taken leading to a stalemate. The Commission agreed to consult with its legal team on this issue and report back to the group. There was general agreement that the provision of test results should be obligatory. After further discussion the group agreed on the addition of “*evaluation and test results*” to the text. The matter will be resolved at the next meeting.

- c. **Application of ATEX Guidelines 3.3** – (ATEX\_WG/08/1/04, Report by ExNBG)

The Commission introduced this item and explained the background. There was general agreement with the goal of this proposal but it was felt that the text required further revision. UK agreed to work with NL on a revised text for a four week circulation period via Circa. UK queried whether it is possible to refer directly to standard EN 13980. The Commission stated that this would be an acceptable way forward.

- d. **Clarification to EHSR 1.0.6 (c) and chapter 10.1.3 of the ATEX Guidelines** (ATEX\_WG/08/1/05)

NL introduced this paper. UK argued that the phrase “*where appropriate*” in 1.0.6.c of Annex II of the Directive should not be defined too restrictively in guidance. UK commented that being too prescriptive could also be misleading. CENELEC was concerned that the group seemed intent on writing into guidance what already exists in standards. NL agreed to revise its proposal for discussion at the next meeting.

e. ***Borderline list for ATEX products*** – (ATEX\_WG/08/1/06)

SWE introduced this paper explaining that the document is a work in progress and called for comments. There was a discussion about the inclusion of “*conduits*” on the list. The Commission proposed that, with additions, the list could be published on the ATEX website.

f. ***Notified Bodies Issuing EC-Type Examination certificates for Category 3 Goods (ATEX Guidelines 10.2)*** – (ATEX\_WG/07/2/06, Report by ExNBG, ATEX\_WG/08/1/07)

UK introduced this paper and explained that although all Member States agreed with the UK paper put forward at the last meeting, it had become clear that guidance was required to ensure uniform application across the EU. There was discussion about the wording and some confusion about the way in which complex cases are covered. UK agreed to review the document and revise it to remove any confusion. The Commission proposed a written procedure to complete this work.

g. ***Definition of non-electrical equipment*** (ATEX\_WG/08/1/08)

SWE introduced this paper, the aim of which is to inform other Member States of the issue and promote discussion. In the discussion which followed there was general agreement that this issue is too technical for a working group although the revised definition was not felt to be a cause of too much concern.

h. ***How should the directive be applied to filter units and vented silo bins? (proposed revision of the Consideration Paper on Filter Units)*** (ATEX\_WG/08/1/10)

GER introduced this paper followed by a discussion. The CEN/CENELEC consultant thought there was some confusion in the paper and that it was too long. He agreed to provide a report on the problems in the paper to the next meeting.

i. ***Treatment of obsolescence of harmonised standards by notified bodies (proposed addition to ATEX Guidelines 10.4)*** (ATEX\_WG/08/1/13)

UK introduced this paper which follows on from the work already undertaken on 10.3 of the Guidelines. There was a general feeling that further guidance is not necessary in this area and that the issues covered by the revised 10.3 ought to cover obsolete standards. The CEN/CENELEC consultant explained that the next edition of non-electrical standards will indicate whether changes are significant or not. The Commission stated that the situation is evolving and that, until the impact of changes to 10.3 could be assessed, the addition of 10.4 to the Guidelines could be put on hold.

#### **4. Progress on standardisation**

a. ***ATEX Harmonized Standards*** – Europa Lists

The Commission confirmed that a new list would be published as soon as possible.

b. ***Report of CEN TC305*** – Report from CEN TC 305

The CEN consultant was not available to give a report but the Commission advised that a report would be published to Circa.

c. **Standardisation work in CENELEC TC 31** – Report by CENELEC TC 31

The CENELEC consultant reported that fewer harmonised standards were being used in support of the Directive. The April list did not include all the standards, the remainder of which are on a follow up list. However, there are problems with supersession dates particularly with regard to category 1 equipment.

d. **Report by the ATEX CEN/CENELEC Consultant** – Oral report

The consultant reported that, of 16 standards, 6 had received positive assessments and 10 negative although these were caused by formal not technical problems. The consultant also reported that this is the first time that standards will have information regarding whether changes are significant. Amendments to EN 1755-2000 has been finalised and sent out for vote. UK queried what the amendments were and the consultant confirmed that they addressed electrostatic risks.

e. **Substantial modifications due to change from standards series EN 50014 ... to series EN 60079** (ATEX\_WG/07/2/10)

The Commission confirmed that this item will be discussed at the next meeting and that ExNBG will provide a document for discussion.

f. **Standard Marking Evolution (new edition of EN 60079-0)** (ATEX\_WG/08/1/09)

FRA presented this paper and asked for feedback. The CEN/CENELEC consultant explained differences in marking globally have led to a more complex system. He also advised that marking alone is not enough to determine correct use of equipment but instructions should be referred to. The CENELEC consultant explained that problems had arisen when markings are combined. FRA reiterated that a change in marking could lead to different marks becoming very similar causing more confusion. The CENELEC consultant suggested that FRA should make its concerns known to TC31. The Commission proposed that this issue be discussed further when more information is available.

g. **Update on a proposal on “International legal requirements for explosion protection” submitted to UNECE** (Reports by DE and COMM)

GER provided an update on the most recent meeting of WP6 in March. The next meeting will take place on 29 September in Paris and GER urged Member States to participate. This meeting will set the groundwork for a meeting in Geneva on 03 November.

5. **Oral Report from Chair of ADCO** (NL)

The ADCO Chair was not present but a representative from NL confirmed that a report would be uploaded to Circa.

6. **Co-operation between Notified Bodies**

**Information on ExNB07-306 Type exam certificates and state of art (under consideration)** (ATEX\_WG/08/1/12)

The ExNB representative introduced this paper which was presented to the last ExNB meeting. The next ExNB meeting is scheduled for 27/28 November. NL and DEN both had concerns regarding who and how a state of the art change is determined.

7. **Revision of the New Approach: State of Play** (Oral report by COMM)

The group received a presentation on the current state of play of the New Legislative Framework. The Commission did not think a revision of the ATEX Directive was required just yet but called for comments from Member States. DEN suggested that time limits be placed

on EC-Type examination Certificates as is done under the Machinery Directive. AUS queried how Notified Bodies with clients in another Member State would be assessed and asked which Bodies were discussing the issues around the market surveillance database. The Commission confirmed that subsidiaries of Notified Bodies must seek accreditation in the Member State in which they are located. More information is required with regard to the market surveillance database.

#### **8. AOB**

Two items of AOB were raised.

ITA raised a query regarding the electronic format of instructions etc. The Commission confirmed that a paper for discussion would be uploaded for the next meeting.

Gas Turbines and the interface between the product and user Directives was raised following further contact by turbine manufacturers. The Commission confirmed that closer contact with DG EMPL was being pursued in light of this approach. A document will be distributed for discussion at the next meeting.

#### **9. Date of Next Meeting**

11<sup>th</sup> December 2008. Confirmation to be sent via Circa.

Denis Clarke

BERR

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