

BIS Ref:  
Your Ref:

Name  
Address

- Dear Stakeholders

### **MACHINERY DIRECTIVE WORKING GROUP (MDWG) HELD ON 7- 8 JULY 2009**

I attach a report on the latest meeting of the MDWG. Although the Group did not directly address the comprehensive Guide that the European Commission is currently preparing on the entirety of the new directive (2006/42/EC) there is now a special emphasis on dealing with issues, whether newly raised or longstanding ones, that are particularly relevant to helping the sector prepare for the coming into force of that directive during the last few days of this year. Therefore, out of the multitude of issues that the MDWG always seems to have its on its plate at any one time, I might, from this meeting, direct readers in particular towards the following (in their order of appearance)

- avoiding the new type examination certificates, with their 5 year duration, all falling due at the same time
- dealing with the transition from EN 954 to EN 13849 on safety control systems (not actually a direct result of moving from 98/37/EC to 2006/42/EC although it can give that impression as the transition happens to fall around the same time)
- (out of date) normative references in harmonised standards (similarly a problem in its own right but made more acute by the exercise currently underway to update the harmonised standards under the directive)

One other item that is possibly worth mentioning in this company is the identification of a potential 'new' safety component to be added to the indicative list at Annex V (see under the heading 'Replacement of guards on old construction site hoists' in the main report). The architecture is now in place to take such a step if the will to do so exists. This will be through the Committee foreseen by Article 22 of 2006/42/EC which has now been formally constituted and is also available for what was always anticipated as its first task, namely the adoption of the Guide I refer to at the very beginning of this letter. There are still plans too for a public launch of that Guide on 9<sup>th</sup> Dec. in the immediate aftermath of its adoption.

Once again I would have to stress that the date is provisional but some of you may wish to note it in your diaries, nevertheless, if you have not already done so.

Before we get there all of the Machinery directive team here would like to wish you a most enjoyable and refreshing summer break.

**MIKE DODDS  
ASSISTANT DIRECTOR  
SINGLE MARKET DIRECTIVES (Machinery, PED, ATEX, Lifts, PPE, Noise of Outdoor  
Machinery)  
ENVIRONMENTAL AND TECHNICAL REGULATION DIRECTORATE**

**REPORT OF A MEETING OF THE MACHINERY DIRECTIVE WORKING GROUP  
BRUSSELS 7-8 JULY 2009**

1 Principal Abbreviations/Terms

2 **COM**: European Commission; **CECE**: European Manufacturers' Association; **CEN**: European Standardisation Committee (**TC**: CEN Technical Committee); **ESRS** Essential Safety Requirements (i.e. Annex 1 of the directives) **MD**: Machinery Directive (generally) but **98/37/EC** for specific references to present Machinery directive and **2006/42/EC** for specific references to the revised Machinery directive respectively; **MS**: Member state/s (depending upon context); **NBs**: Notified bodies; **NB-M**: Notified Body Forum; **OJ**: the Official Journal (of the European Union); **RfUs**: Recommendations for use (propagated by NB-M); and **WG**: Working Group.

Ian Fraser chaired for the Commission. Mike Dodds of Department for Business, Innovation and Skills and Phil Papard of the Health and Safety Executive represented the UK.

**2.1 MATTERS ARISING FROM THE PREVIOUS MEETING**

UK formal objection against EN 693 - hydraulic presses

Sufficient progress has been made so objection is withdrawn and item closed. If further problems emerge UK will raise again.

Policy on publication of Machinery standards

Horizontal discussions at the COM level (about distinguishing, A, B, and C type standards in the OJ) have not gone well with specialists in COM standardisation unit as nervous about the legal implications.

UK probed further about the manner of publication of standards in the OJ wondering whether details of the Annex ZA (i.e. the part of the standard notifying which ESRs it covers) might accompany them. CEN did not think this was practical given the number of ESRs there are in the directive. COM conceded that the content of Annex ZAs generally needed further attention and that it is not always clear whether some ESRs are covered or not. However they have more pressing priorities - most notably publishing the first list of standards under 2006/42 - at this time.

Period of validity of EC-type examination certificates

COM has suggested that the 5 years might run from the date on which the certification was brought into line with the new directive as a way of avoiding the certificates all reaching expiry at same time and resulting bottlenecks. Believes further that the NBs understand this without previously anticipated need for written guidance so this will be the practice under 2006/42.

Formal objections against EN 12215 and EN 13355 - Paint booths and combined paint booths

Fr hopeful that the further testing required will be undertaken in the autumn.

Formal objection against EN ISO 4254 -1: Agricultural machinery: General requirements

TC144 has brought amended standard to vote (vote ends 9<sup>th</sup> July) and Fr confirmed its satisfaction with the revised content.

Ger widened the debate against a background of several recent fatalities in this sector on their territory. In response COM affirmed that the work that the Ger authorities and their occupational health institute had performed here should give a good foundation for the revision of individual standards in this sector on an ongoing basis.

Discussion shifted onto certain concerns, both here and in other sectors, that the positions of CEN consultants were being undermined. Their opinions, especially on the composition of Annex ZAs, seemed to be coming under increasing challenge to the extent that their objections were sometimes being disregarded entirely within the CEN process. No immediate conclusions could be forthcoming but this was marked up as an issue for further exploration. COM and MS are not advocating an effective power of veto for the CEN consultant but some sort of response is required where a standard's preparation has been fraught with these sorts of disputes. If warnings and the like are not available then at least a push for early revision perhaps should be. UK asked if the COM were made aware of the Consultant's view when a standard was forwarded for reference in the OJ. The COM's reply was that they were *not*.

Formal objection against EN 1459: Powered industrial trucks (variable reach)

No further progress - to be carried forward.

Refuse collection vehicles

Document explaining the various types of loading mechanisms and how they relate to Annex IV is now published on the COM web-site with updated references to 2006/42.

EN 13524 Highway maintenance machines and EN 690 Manure spreaders

TC 151 met on 16<sup>th</sup> June and made progress. Re. 13524, coco matting was agreed (rather than concrete) for the testing surface. Tests to be discussed in Oct. and will lead to proposals for improvements. Italy content with this situation.

On 690 draft for enquiry should emerge by end of year but Italy retained concerns here and urged other MS to look at the evidence carefully and reach their own conclusions.

Channel baling presses

New work item created and enquiry out to CEN members for expressions of interest in participation. Fr urge that waste presses should at least be considered for inclusion - same basic working methods and so same risks.

Formal objection against EN 474 - 4 & 5: Earth moving machinery

COM decision still pending - to be carried forward.

Formal objection against EN 500 - 4: Mobile Road Construction Machinery (compactors)

New information now received from Fr but COM decision still pending.

Warning for EN 1726 -1 and 1459: industrial trucks

COM still not resolved situation with its standardisation unit about the precise nature, and thus wording, of the warning (see April WG report). Want to resolve this before they publish the first overall list under the new directive.

Trades Union representative asked about the transparency of such warnings given end users will typically see (only) the Declarations of Conformity. COM acknowledged the problem but no solution, other than revising the std as soon as possible.

Comments EN 848 – woodworking machines

Sw reported that there were two issues that still need to be resolved following deaths both in their territory and in Germany, with better protection for workers from ejected parts, but revision work now seems to be going satisfactorily with the resolution of the lamina guards issue, in principle. Want warning to remain in OJ but this can go when there is a new standard covering the issue.

Revision of EN 1570 - Lifting tables (Doc WG 2008.03)

CEN TC resolution now issued and sets out a way forward that Fr accepted as reflecting their understanding of the situation. No statement from CEN was offered on this issue.

Interchangeable work platforms on telehandlers EN 280

Enquiry open until Oct and feedback from at least Italy is anticipated. Some breakdowns in communication between CEN and the Italian authorities were acknowledged.

No RfU in the offing according to NB-M.

Lifting function of a vehicle chassis

COM is still waiting, as was the case in Apr, for a reaction from vehicle legislation colleagues on whether the equipment would fall under their legislation (having previously ruled out the MD). To be carried forward.

EN 14985, instability of dock type slewing jib cranes

COM decision still pending - to be carried forward.

Small saw benches

No news from NB-M - statement to follow

3(9): Digger attachments for tractors (interchangeable equipment)

CEN said it should reach enquiry, i.e. of draft C standard, by end of July.

EN 474: Quick hitches

Moved to ISO (TC 127) as a parallel project and that group will begin work in September. This work could result ultimately in a normative reference in EN 474.

UK already taking its own steps but the good work they are carrying out with the industry locally needs to be backed up at EU level by a safeguard action.

EN ISO 11681 Chain saws

Ger content that the grounds for their formal objection have now been satisfactorily addressed but, given the time needed for ISO to list the standard, wish to maintain objection until then to protect users of old machinery.

EN 12151 - Machinery for preparation of concrete

CEN believe that the issues raised by Fr will be considered at the next revision. In meantime no inclination to accept invitation at previous WG to withdraw it. COM will therefore prepare a formal objection.

EN 12649 - Concrete compactors

No progress. To be carried forward.

Gas and steam turbines, coverage

In light of previous discussions COM has addressed situation in the latest draft of its Guide of a manufacturer of an assembly without a drive system who could not specify (not unreasonably) how the machine would be used.

Waterpropellers

No feedback from the specialist industry yet so to be carried forward.

Airplane steps

Ger has written to the Euro Aviation industry on the WG's behalf but without a response yet. Would value further meeting, too, with Fr authorities.

EN 1010 platen presses

Onus remains on COM here to draft its decision.

Safety of wood chippers EN 13683

TC144 WG7 has worked on this, met successfully and a draft should follow.

Guarding for removable mechanical transmission devices

Fr tried to elaborate on previous reservations in the course of a presentation including demonstration of a sample part. Notwithstanding the merits, or otherwise of the products, differing views continued to be expressed on where they fitted, if at all, into the MD's classification scheme, noting that they can be used to link up different generations of technologies.

COM outlined 3 possible scenarios

- a component ('spare part')
- safety component
- Annex IV safety component.

With the latter two they would be covered by the MD.

Dk believed they were covered by the MD. Ger sceptical about it being 'a spare part' but not sure of its safety function. UK refined its previously expressed view. Still convinced it was a 'safety component', including in the sense of the MD, as it has a guarding function *and* is placed on the market separately but, as it guards the PTO, could actually be interpreted further to this as coming under Ann IV.

Lifting platforms users - impaired mobility (2009-09)

No end result yet in respect of the DIN appeal from the Ger national standards body (DIN).

Safety related elements of control systems

Following the concerns raised at the previous meeting about the difficulties of the imminent phasing out of EN 954 and replacement by EN 13849-1, a CEN machinery sector paper had been tabled for this WG following a nucleus meeting involving TC144. The paper had advocated continuing to accept EN954 'for a certain time' where harmonised standards continued to reference it. The CEN representative suggested that the period in question should be the maximum allowed for in CEN house rules, i.e. 3 years. COM was very receptive to this idea in principle but did not necessarily see why, in these circumstances, they should be bound by these rules. Were CEN to come back suggesting a more generous period - 5 years was mentioned - they could expect it to be favourably received. CEN will consider whether it is able to do this.

**EUROPEAN NOTIFIED BODIES UPDATE AND RECOMMENDATIONS FOR USE (DOC WG 2008.10)**

NB-M Chairman (Jean Jacques) majored on his group's principal project at present, namely the paper they are developing, in Question and Answer form, on the application of Annex X in 2006/42.

There was a limited response from delegations, Jacques himself commenting on the lack of any strong indications so far that the take up of the module itself, once it is available, will be spectacular, at least in the first instance.

On the project led by Mr Richard Wilson to rationalise RfUs, Swe reported that a successful initial meeting had taken place in Stockholm on 1<sup>st</sup> July meeting and the group was likely to reconvene at the beginning of Sept.

## **STANDARDISATION UPDATE**

The CEN representative (Gerhard Steiger) gave a general presentation on the overall state of play with the adaptation of standards - headline figures were, out of a total population of 584 standards, 92% ready for Unique Approval Procedure/Final Vote, 78% UAP/FV actually launched or closed, and 53% published.

## **INTERPRETING THE EXCLUSION FOR NUCLEAR PURPOSES (ART 1(2) (C))**

Two questions raised by different delegations concerning this exclusion (reproduced below in italics).

*Machinery specially designed or put into service for nuclear purposes which, in the event of failure, may result in an emission of radioactivity.*

The first from Fr concerned 'industrial radiography devices' typically used in the construction industry for non-destructive testing (NDT) of welds etc. The paper identified the key feature for analysing such devices - provided they were not manually driven and thus immediately excluded from the MD in any case on that basis - was their inclusion of a radioactive source. Such devices had previously been analysed as falling within the MD, i.e. the exclusion *does not* apply, and there was no reason to overturn this - the isotope is just part of a machine whose purpose was NDT and not something inherently 'nuclear'. The relevance of the Euratom directive (96/29 Euratom was also noted and will also be in the Guide).

By contrast a second paper from Sw argued that 'cyclotrons', used for the production of radioactive isotopes, *were* covered by the exclusion. Such an interpretation might be missed if the expression 'nuclear purposes' was considered synonymous with 'the nuclear power industry' but the paper contended that this was not a reasonable interpretation the machine still, indubitably, has a 'nuclear purpose'.

The contrasting conclusions of both papers were accepted by the WG without much argument.

## **INTERPRETING THE '3 METRE' CRITERION (ANNEX IV, ITEM 17)**

Long discussion, based on a Fr paper, about a *prima facie* simple sounding criterion which is critically used to separate lifting equipment that *involves* 'a hazard of falling from a vertical height of more than 3 metres' from the rest and place it in Annex IV. Discussion was not conclusive,

however, and will need to be re-visited, probably drawing upon analysis that VG8 of the NBM has performed.

The question of foreseeable/intended use looms large here. COM observed that the question comes into clearest focus in respect of machinery which can be used higher than the ground level - i.e. the highest level to which people can be carried and the level to which they can fall. Generally, however, this lifting is intended for usage on the ground and the manufacturer cannot *typically* be expected to anticipate other types of usage that might take the overall level of operators above 3 m. (unless the equipment's intrinsic dimensions already provide for this).

## **REPLACEMENT OF GUARDS ON 'OLD' CONSTRUCTION SITE HOISTS**

A Swedish paper pointed to the present dynamic in the market, given the inclusion of construction site hoists *in their totality* in 2006/42/EC, to upgrade existing hoists, especially by fixing new landing gates. Such hoists would not, of course, need to be brought into compliance with the directive typically but the question posed was whether the *gates/guards*, as 'safety components' in their own right, would need to be if they were placed on the market/put into service after the implementation date for 2006/42. The analysis was accepted without dissent that they *would*.

A separate, but interesting, issue was whether such items were included in the list of 'safety components' at Annex V. Given that this is an *indicative* list their apparent non-inclusion was not critical, as such - Sp as it happened, thought they were already in, conceptually. Art. 22 offers the opportunity to adjust Annex V and, in the light of such an uncontroversial discussion, this opportunity may now be taken. This could be sooner than later as, during these two days, the Art. 22 Committee was successfully constituted through the adoption of rules of procedure, and is now geared up, therefore, to perform the tasks foreseen for it by Art.8 (first and foremost to adopt the 2006/42 Guide under Art. 8(2)).

## **TELESCOPIC PERSONNEL CAGE (TPC)**

Fr invited delegations to consider the status of TPCs, used to unlash containers from a crane spreader. The paper suggested tentatively that they fell under the MD but the overriding impression of the meeting was one of scepticism pending further details emerging. COM suggested that the crane must be 'the lifting device' and that the TPC must then be 'integrated' if it is also to be considered under the MD as opposed to national provisions that MS could choose to apply under the Use of Work Equipment Directive. From the information and pictures provided so far it did not look very integrated but he was open to persuasion otherwise if the evidence emerged.

## **INDUSTRIAL TRUCKS prEN ISO 3691**

Fr expressed concerns about the state of standardisation in these areas drawing parallels with agricultural machines - poor visibility, stability, lagging behind the state of the art etc. This had culminated in a letter focussing on this standard in particular from their national standardisation committee.

A CEN TC 150 representative contested French claims that the situation with the standard was unduly confusing (e.g. because of the differing strands from ISO and regional standardisation). Its Annex ZA will make clear which parts need to be complied with and which, like pt 8 for example, apply only outside the EU. Also contested the state of the art point (ISO 22915 requirements are referred to and these are not below ISO 1074). As for loading control it was pointed out that the draft Commission Guide itself concedes that the state of the art is not so developed here for trucks, *ditto* visibility.

The UK considered that the 474 group of standards did not have the same problem as the rejected agricultural one as the non-EU part was a separate published standard and so did not need to be listed in the OJ. However the UK also offered the thought that the problems here, such as they were, were indicative of the difficulties of developing global standards alongside European ones (through the Vienna Agreement), especially where the latter have the added dimension of legal conformity. The European standards are supposed to always aim for the state of the art but this can be undermined by the constant searches for compromise. The problems encountered here are merely one indication of a wider phenomenon, albeit one that crops up in the pursuit of a higher goal, which probably needs to be addressed at another level.

## **LIFTS/MACHINES CARRYING PERSONS SERVING FIXED LANDINGS**

Fr authorities have reviewed this general area of equipment. In a resulting paper concerns were expressed that, in the process of updating standards for the arrival of 2006/42, not all of the new ESRs were genuinely being addressed, citing as a 'for instance' 4.1.2.8. and the issue there of fixed cables with counterweights. Its conclusion was that TC10 should extend EN 81-43 to cover wind turbines and temporary machines (e.g. tower cranes).

COM took the point, by and large, and wondered whether it might partly be due to CEN TC10, perhaps understandably, having difficulties adjusting to a wider remit beyond its traditional ground of 'classical lifts'.

UK honed in on the expanding area of wind turbines in what it generally considered to be an opportune paper. Good progress had been made locally with a modified lift design that met the ESRs. This was achieved by UK/Danish co-operation, albeit from a low base of knowledge, about the implications of this directive in this area. In European terms the typical approach where the standardisation process needed to be cranked into action of commissioning an RfU as a temporary measure from NB-M had been undertaken as type examination would always be required in the absence of standards coverage. In this context COM clarified that a 'machinery directive lift' installed in a wind turbine could, logically under the directive, be considered either as a machine itself or as a part of the larger machine of the wind turbine itself.

## **POWER OPERATED DOORS**

A brief Fr paper expressed concern that, in respect of these products, CENELEC and CEN had proposed to divide up the work - on e.g. motors and gears and on rails and levers respectively. Given that the products were placed upon the market in kit form the two organisations ought to

work together. Manufacturers were feeling the (unhelpful) effects of this, it was contended. These remarks were noted without much comment.

## **NORMATIVE REFERENCES IN HARMONISED STDS**

A paper from the Finnish authorities focussed on the activity of CEN/TC 114 and CEN/TC 122 in reviewing A/B type standards. Although they had dealt with in excess of 50 so far this situation on the surface was not necessarily so attractive on closer inspection given that many of them still contained references to out-of-date standards. Some of these could be considered as critical in that they called into question the presumption of conformity. The paper included a call for the COM to publish appropriate warnings in its impending list of harmonised standards.

CEN explained that the situation had arisen because of the lack of time. It was a policy decision, taken against a background that was not considered quite so critical as the paper alleged, to only change the references where they had been adapted to the ISO system.

UK clarified that the references would not cause difficulties to the extent that the referenced standards represent the state of the art. In point of fact the problem had only been *highlighted* by the move to the new directive, as opposed to *being caused* by it, but the problem of updated standards referring to other standards was a perennial one.

COM agreed with the UK. They did not think they could provide for the sort of warning the Finns wanted.

## **ORGALIME LETTER CONCERNING STATUS OF MACHINERY IN STOCK**

In a late added item, without underlying documentation, COM referred to a letter received from the manufacturer's organisation Orgalime (copy of letter to be provided in due course) querying the status of equipment manufactured in accordance with 98/37 that has not reached a final customer by the implementation date for 2006/42. The problem of unsold stocks, to the extent that it is a problem in the regulatory sense, is particularly acute because of the global slowdown.

Any reaction from the COM will be consistent with its own 'Blue Guide' which lays down the principles of the whole family of directives to which the MD belongs. This makes clear that the point of impact of such directives - 'placing on the market' - is where the products move out of the manufacturing phase into the supply chain and is not synonymous with sale to an end user. A fuller appreciation of this point may allay these sorts of concerns.

## **NEXT MEETING**

7-8 December.

**MD**  
Environmental & Technical Regulation Directorate  
Department for Business, Innovation and Skills (BIS)

**PP**  
Health and Safety Executive

**July 2009**