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28 June 2010

Dear Machinery Directive stakeholders

I am pleased to present the attached report on the latest meeting of the Machinery Directive Working Group that took place recently in Brussels.

You will see that the Commission's Guide has now been completed and published on the web-site and so, approaching six months after the entry into force of the revised directive, things generally seem to be calming down at least in terms of issues of interpretation. Certainly this WG did not see as many new items as usual being brought to the table. In addition, whilst all of these items were worthy in their own right, none was particularly remarkable in terms of its wider implications.

In respect of the MD one must now hope, given that it has already been 'proofed' against the New Legislative Framework and is therefore not scheduled for a so-called re-cast (re-negotiation) in the immediate term, that attention can be diverted more towards the other directives in the NLF family that *are* scheduled for this treatment. This includes, of course, its sister directive on lifts. Only one delegation seemed to suggest at this meeting that there was enough that was 'wrong' with the MD to justify its being re-opened soon for negotiation and the reaction it received from other member states, as well as from stakeholder interests represented, was not supportive!

Some controversies remain, however, and cannot be ticked off the 'to do' list just yet. For example, buried away in the 'follow-up' items at the end of the report is the thorny question of the transition from EN 954 to EN13849 on control systems. This issue continues to cause problems, right down to the basics like publishing accurate and complete standards listings in the Official Journal.

An event that will try to bring together as many relevant stakeholders as possible, styled as a 'symposium', will be held on 9<sup>th</sup> September and co-hosted in Brussels by the European

Commission and CEN. The objective of this event will *presumably* be to try to avoid the problems of this time last year re-emerging next year as the newly extended date for the withdrawal of the presumption of conformity of EN 954 looms once more into view. Invitations will be distributed through the Commission's network so I will pass this on when it emerges. In the meantime anyone interested in attending, and I know of plenty of interest in the UK, might wish to note the date in their diaries.

This symposium will take place, of course, after the end of summer and so let me take this opportunity to wish all of you from the machinery team here an enjoyable break when it arrives.

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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 1-2 JUNE 2010

Ian Fraser chaired for the Commission. Mike Dodds of the Department for Business, Innovation and Skills and Phil Papard and Richard Wilson, both of the Health and Safety Executive, represented the UK. For a glossary of acronyms see end of report.

### REGULATORY ISSUES

#### Publication of the Commission Guide to the revised Machinery Directive (2006/42/EC)

Work on this guide, under the supervision of the Machinery WG, has now been completed and the final draft was endorsed by the formal Machinery Committee (as constituted under Art.22 of the directive) on 2<sup>nd</sup> June. The complete guide will now appear on the Commission's web-site, replacing the partial text that has been there since the directive came into force.

#### Amendment of the Tractors directive (re. exclusion at 1st indent of Art1.2(e))

The revised Machinery directive currently contains an exclusion which is conditional on an amendment to the Tractors directive (2003/37/EC) being progressed to cover all relevant risks and thus obviate the need for any coverage by 2006/42/EC. COM should get a draft through the college of Commissioners by the summer break that will bring tractors entirely into type approval legislation and this will then be passed to m/states and the European Parliament for negotiation (in the UK Dept for Transport will handle). This WG will continue to be updated on progress but will not have a more active role.

#### Interface with Use of Work Equipment directive (UWED) - 'interpretation of 'exceptional use'

Norway raised a rather complicated issue surrounding the status and significance of recital 7 of 2006/42/EC. This recital expounds the basic principle that the directive does not apply to the lifting of persons by means of machines not designed for the lifting of persons. However it also contains a cross reference to the UWED (89/655/EC as amended by 95/63/EC) which effectively allows m/states in their domestic regimes to tolerate such machines in cases of 'exceptional use'. The basic contention seemed to be that very generous interpretations of this concept across the EU/EEA was 'driving a coach and horses' through the principle of the MD. Norway could only see things getting worse unless the issue was tackled now head on given the increasing demand for these types of equipment (e.g. the need to deal with erosion due to climate change requiring urgent work on hill-sides was cited).

There was no substantive discussion as the issue essentially involved shoring up the concepts used in the *UWED*. This belongs to DG Employment and is being followed up there.

## **STANDARDISATION ISSUES**

### Update from CEN on overall state of standardisation

CEN reported that the overall adaptation rate was pretty much 90% with actual publication lagging a few percentage points behind (currently targeting 3 or 4 list publications in the Official Journal per year - C136 on 26/5/2010 was the latest one). Publication of Type A std EN ISO 12100 (Safety of machinery – General principles for design – Risk assessment and risk reduction) is expected before the end of 2010. The 'new' std combines the existing EN ISO 12100 with the risk assessment standard EN ISO 14121.

### Angled wood chippers

UK presented a paper requesting modification/clarification of EN13525 concerning the meaning of 'near horizontal'. On the assumption that this clarification would confirm that inclined wood chippers are not in the std's scope the UK was also seeking a mandate for a new work item to deal with inclined chippers. These were not as dangerous as horizontal chippers as the branch was not forcibly drawn in by rollers, it just fell in under gravity, but they still posed risk of arm access. At present HSE was dealing with these products in the UK on the strength of the 'state of the art' criterion but it would be far preferable for this to be backed up with a proper std.

No dissenting reaction from m/states so CEN will be asked to respond.

### Turning machines and 954

UK posed a question about the soon to be published C type std on 'Machine tools – safety - turning machines' This already references 13849 (alone) in respect of safety-related control systems but is it nevertheless possible to use 954 to comply with it given the extension to the presumption of conformity agreed to that std?

The UK's expectation of a negative answer to the basic question was confirmed by COM - in these contexts it is the application of the C type std that gives 'presumption of conformity'. Where the C type std has been adapted already then, even with the extension to 954, there is no such presumption. The only solution would be the granting of a transitional period for the former C type std and this would need to be determined in accordance with CEN rules. To start this process CEN would need to receive a request from the national stds committee.

### Log splitters

Italy presented a paper about relevant product std EN 609 arguing for its revision in terms of its cross reference to EN574 and two handed controls. France, Germany, Belgium and UK all supported and so the COM concluded that it looked *prima facie* like a cast iron case for revision. Enquired whether a written process might be invoked instead of waiting for the CEN plenary in Dec. 2010, CEN to respond.

## **CONFORMITY ASSESSMENT ISSUES**

### Emergency stop devices (ESDs)

Adopting a style that is becoming increasingly common in WG papers (ref 'lifting accessories', 'household appliances') Germany presented a pictorial analysis of various sorts of ESDs. In this case the listing assumes that its ESDs are in the scope of the directive and simply assesses whether they can in principle comply. ESR 1.2.4.3 makes an ESD mandatory except for portable or hand-guided machinery or, generally, where it would not decrease the risk.

Amongst four generic types that were identified, the so-called 'flap stop (red mushroom plastic button fitted into a "flap" that dropped over the normal stop button) devices' attracted particular attention with some scepticism expressed about their suitability, as if left open there was no E-stop function. More generally the principle of the paper was accepted and Germany was encouraged to continue to work through its document. M/states should in turn suggest additions, deletions and comments on the verdicts reached with a view to having a full discussion for next time.

### Stairlifts and the 3 metre criterion (Annex IV item 17)

COM raised an issue surrounding the interpretation of item 17 of Ann. IV. 'Stairlifts' had to be deleted from the list of examples in this section of the Guide as there was plainly a lack of consensus on how to interpret 'the 3 metre criterion' for these products. The Guide itself does not go into trying to relate the vertical distance to the angle of falling (although a fall down 80 degrees is a very different matter from 30 degrees, say). The UK pointed out that not doing so would inevitably switch attention to the concept of 'falling' – this is dependent on the slope and nature of the incline.

Although at least two delegations in the course of discussion 'would expect' to see stairlifts as Ann IV the COM had no inclination to change the Guide. Others pointed out that, whatever the theoretical niceties, the existence of a harmonised std here made the practical relevance of their inclusion, or non inclusion, in Annex IV increasingly less significant at a practical level.

## **SCOPE ISSUES**

### Cable cranes (aka 'Blondins')

France drew the WG's attention to what it termed 'cable logging devices' which it alleged had developed out of sustainable forestry practices, e.g. to avoid harming the soil etc.. There are safety issues with these devices most notably because they are being constantly moved and re-assembled and deployed – they had just had to deal with an incident in the Pyrenees.

They believed that they were in the scope of 2006/42/EC (and, by extension, were subject to the ESRs at Ann1 section 4). Austria supported this analysis as did the UK although Spain was less sure, drawing parallels with (disassembled) cranes. However COM strongly endorsed the French position pointing out that, far from being new, it is actually very old technology, and these products were sometimes referred to as 'Blondins' in North America (after the high wire artist of that name).

France was grateful for this clarification most especially because it saw the demand for this sort of equipment increasing (with climate change making another appearance as one of the underlying factors here!).

### Quick hitches

UK presented a paper analysing the status of quick hitches, i.e. were they 'partly completed machinery' or 'interchangeable equipment'? If they were to be the latter, which was the conclusion of the paper, two criteria would need to be satisfied, namely a function being added and is it supplied with the intention of being fitted and removed by 'the operator' (this concept itself being subject to interpretation)? Also, how does the sort of modification kit, for the excavator to accept the quick hitch, commonly supplied with these products affect the analysis, if at all?

France agreed with the conclusion as did Sweden, Denmark, Belgium and Germany but Spain was not sure whether the function of the *original* equipment was being modified and the Netherlands had similar reservations. Ireland favoured the conclusion generally but also hinted that the hitches might count as 'machinery' outright, in the basic sense used in the directive, whilst many of those agreeing with the UK were slightly hesitant about whether a genuine change of 'function', as in the meaning of Art. 2(b), is established here.

COM counselled a pragmatic approach that does not get over distracted by the definition of 'function' and this inclined it towards the 'interchangeable equipment' verdict. At the same time it identified a need for some sort of consultation with industry, in this case CECE. At the same time it would ask CECE about the feasibility of their encouraging the industry to supply the original machinery with the ability to accept a quick hitch.

### ***MATTERS ARISING FROM THE PREVIOUS MEETING***

Some evidence of the pace being picked up on closing off these points but COM still conscious of large backlog of formal decisions it needs to progress. Finally polishing off the Guide should help them to catch up.

Items of interest can be picked out of the following.

**Formal objections against EN 12215 and EN 13355 - Paint booths and combined paint booths** new tests are being devised, with preliminary tests to take place in France in Aug followed by a tracer gas to analyse exposures in the autumn (poss. at the UK Health and Safety Labs) and definitive testing envisaged for Spring 2011 **Formal objection**

**against EN ISO 4254 -1: Agricultural machinery - General requirements:** amendment has now been published taking account of the content of the formal objections and ISO has also started work on a new item, no further action for WG. **Formal objection against EN 1459: Powered industrial trucks (variable reach):** Bob Hine of the British Industrial Truck Assoc. explained that EN 1459 is under full revision where the content of the formal objection is being taken into account (although COM decision on this objection is still pending so a parallel process is going on). UK was asked to check that the draft std clears up their formal objection. **Refuse collection vehicles:** references have been adapted to 2006/42/EC and the analytical doc is on COM website, no further action for WG **EN 13524 Highway maintenance machines:** 15 March meeting of TC 151 further discussed testing requirements but not conclusively, will try again in Oct., item carried fwd **EN 690 Manure spreaders** Draft out to CEN Enquiry from March still open for comments, carry item fwd **Channel baling presses:** France had requested extension of scope to waste balers and CEN confirmed that this had been taken into account, adding that the work now had three overall strands to it - vertical, horizontal, compactors, and is proceeding well, no further action for WG **Formal objection against EN 474 - 4 & 5 - Earth moving machinery** COM decision still pending, and TC 151 still discussing but case for these safety valves will be implemented. CECE acknowledged that steps are being taken to eliminate need for such valves in the long term. COM acknowledged that promulgating a decision in this case is a priority; **Formal objection against EN 500 - 4: Mobile Road Construction Machinery (compactors)** COM decision still pending. **Warning for EN 1726 -1 and 1459: industrial trucks + EN ISO 3691 series:** France had submitted a further letter, including results of a study, in support of its continuing reservations that the stds are not representing the state of the art on 'stability'. Even so Mr Hine alleged that this material was itself out of date and could not therefore support the case France was trying to make. CEN consultant had approved this std and a suite of others, cross referencing technical aspects of the ISO std in the Euro regional element (pt 7). UK raised the issue of dynamic stability and Mr Hine confirmed it was in the 'worst case scenario' of an unladen truck undertaking a 90 degree turn (referred to as an 'L' test). **Interchangeable work platforms on telehandlers EN 2800:** Mr Hine confirmed that the issue of rotating trucks is being taken up by TC 152 in the full revision of 1459. NB-M (VG9) is also working in this area. **Lifting function of a vehicle chassis:** COM is still waiting, as was the case in December, 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:** sent to CEN enquiry on 1 April so open until Sept, Germany can check that its objection has been covered. **Small saw benches:** In absence of feedback convenor of relevant NB-M Gp (VG3) was asked for written submission **EN 474, Quick hitches:** COM decision still pending **EN ISO 11681, Chain saws:** COM decision still pending. CEN reported draft had been out to comment until spring. Expect publication in Oct '11. Claimed that all German objections have been covered **EN 12151, Machinery for preparation of concrete:** Still waiting for revision proposals from France based on its own research **EN 12649, Concrete compactors:** Decision still pending but CEN say it is progressing well **Gas and steam turbines, coverage:** Guide has been adjusted in line with the conclusions, no further action for WG **Water propellers:** still seeking more views and information from the specialist industry who seem a bit 'passive' about the whole affair, to be carried forward **Airplane steps:**

Germany waiting for CEN to act on the work of the *ad hoc* gp of m/states. **EN 1010 platen presses:** COM decision still awaited **Safety of woodchippers, EN 13683:** CEN believes that the German objections are now covered by the version that has gone through TC144. **Lifting platforms users – impaired mobility, EN 81-41:** UK and Sweden, backed up emphatically by EPSA, expressed dismay at the resolution, currently being voted on within CEN, to escape from an apparent *impasse* with the adopted std caused by an appeal from the German Stds Authority, DIN. The options available in the resolution did not include proceeding with the adopted std *even though* it had been endorsed by the CEN consultant. Moulding the std to fit the DIN objection – essentially involving mandatory provision of a key - even threatened to make it unworkable in some m/states on account of disability discrimination legislation. CEN responded that the original consensus had shown signs of breaking down once the DIN appeal had emerged and needed to be refreshed.

**Interpreting the ‘3 metre’ criterion (Annex IV, item 17):** Guide now deals with remaining doubtful area over mobile machinery, no further action for WG **Lifts/machines carrying persons serving fixed landings:** Paul Williams for the NB-M reported on a meeting with HSE to progress an RfU in relation to wind turbines. Need for more information identified and will be addressed by a meeting scheduled for 15 June with stakeholders in Denmark to help this process. **Power operated doors:** No progress report received **as planned meeting was cancelled Woodworking machinery (guard locking)** Newly tabled document (2010.17) promised decent progress towards solving the problem but Sweden very uneasy about the distinction it makes between hobbyist and industrial use - safety should be equal. Supported by Germany. COM notes that the requirement for guard locking is now more formally established in 2006/42/EC but it was always there in previous directives. **EN 954/13849** COM and CEN to co-host a ‘symposium’ on 9<sup>th</sup> Sept. in a room holding up to 150 attendees. Denmark wanted std EN 60204 (Electrical equipment of machines) to be included but CEN was against this. Delegations pointed to omission of EN 954 from latest list of harmonised stds (published 26<sup>th</sup> May)! COM confirmed that its Dec. 2009 communication was still valid and that therefore EN 954 should have appeared in the May list and that there will be a *corrigendum* to this effect. **prEN 4254-12 (mowers)** Has received a negative formal assessment that is working its way through system **CE marking in stds** will be covered in revision of ISO Guide 78 after work has been done on ISO risk assessment std, i.e. the footnote criticised by Sweden will be deleted. **EN ISO 4254 (Agricultural Machinery)** France was concerned that references were unclear, Euro refs could not be included in the main text as they were regional. France not yet satisfied, need a holistic C std for the product, 4254 not a lot of use. Germany, agree. CEN impatient with nature of discussion. COM quite sympathetic, would like to see better cross referencing or creative usage of the foreword - could France look at these to try to find some way out of the problem? **Homelifts** in respect of developing a std CEN suggested that EN 81-41 could take this on board in its revision (see above) although EPSA slightly sceptical about the prospects. In respect of developing an RfU Paul Williams reported stuttering progress. Initial draft rejected mainly because it was based on a latch type not ‘hold to run’. Needed clearer steer from WG to give the work the necessary momentum. **Air handling units** scope issue not now referred to Construction Products directive colleagues as accepted now that these products are ‘machinery’ **Listing of Pressure Equipment stds under MD** CEN did not think this was wise on reflection given the complexity of typical PED stds and the sheer number of them, no further action for WG.

**Electric bicycles:** message has been conveyed to the manufacturers of Electric Power Assisted Cycles (EPACs or pedelecs informally) that they are considered to be in the directive and they cannot effectively wait until there is a harmonised std to comply. Final confirmation will now follow in absence of *convincing* arguments to the contrary. Many are CE marked already but only under Electro Magnetic Compatibility directive (std is harmonised under that). **Mandate for stds to support pesticide amendment** EU standardisation Committee (under 98/34 directive) has considered the mandate and has received comments. CEN aware of this but perfectly able to at least start the broad area of work and keen to point out that it is already 'on the case' (eventual stds will be in the '13970 series').

## **GLOSSARY OF ABBREVIATIONS/TERMS**

**COM:** European Commission; **CECE:** European Manufacturers' Association; **CEN:** European Standardisation Committee (**TC:** CEN Technical Committee); **EPSA:** European Platform and Stairlift Assoc.; **ESRS:** Essential Safety Requirements (i.e. Annex 1 of the directives); **EU/EEA:** European Union/European Economic Area **MD:** Machinery Directive (generally) but 98/37/EC for specific references to former Machinery directive and 2006/42/EC for specific references to the revised Machinery directive respectively; **ISO:** International standards Organisation; **NBs:** Notified bodies; **NB-M:** Notified Body Forum (**VG** – NB-M 'vertical' or sub group); **OJ:** the Official Journal (of the European Union); **RfUs:** Recommendations for use (propagated by NB-M); **Std** Standard and **WG:** Working Group.

**MD**

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