



Brussels, 12.12.2007

**SUMMARY RECORD OF THE MEETING OF THE COMMITTEE OF
DIRECTIVE 2001/95/EC ON GENERAL PRODUCT SAFETY**

BRUSSELS - 29 & 30 NOVEMBER 2007

Introduction

The meeting was chaired by Mr Stefano Soro, Head of unit.

1. Adoption of the Agenda

The draft agenda was adopted without changes. The adopted agenda is attached as Annex 1.

The attendance list is attached as Annex 2.

2. Adoption of the minutes of the previous meetings

The draft minutes of meetings of 28 June and 3 October 2007 were adopted with amendments from SI regarding the notification of products. The adopted minutes are attached as Annex 4.

Implementation and application of the new General Product Safety Directive

3. Reduced Ignition Propensity (RIP) cigarettes

- **Draft Commission Decision on the safety requirements to be met by a European Standard for Reduced Ignition Propensity (RIP) cigarettes in accordance with Article 4(1) of Directive 2001/95/EC**

The Commission presented the draft of the Decision on the fire safety requirements to be met by European standards for cigarettes pursuant to Directive 2001/95/EC on General Product Safety and opened the floor for a final exchange of views.

- **Final exchange of views**

Presentation by Sir Ken Knight, the UK government's new Chief Fire and Rescue Adviser. Sir Ken recalled that RIP cigarettes were a legal obligation in several US States, in Canada, and soon in Australia. He considered that a RIP requirement in the EU could save about 1,000 lives every year. He called for passing a mandate on RIP cigarettes to CEN.

A number of Member States expressed support for the requirements. In particular SE underlined that the EU Fire Safety Network, a group of fire fighting representatives from across Europe, strongly supported the introduction of the requirements. The Network

declaration at its Athens meeting on 27 and 28 November 2007 stated that “The Network believes that the Commission's proposals will therefore undoubtedly have a measurable impact on improving the fire safety for EU’s citizens in a way that has not been possible through education and advice alone over many decades.”

Other Member States re-stated their concerns, in particular the missing statistical evidence for the reduction of fatalities from regions that already have RIP cigarettes. EL insisted that an appropriate transition period should be foreseen in the future standard, and that patent issues would need to be addressed and the know-how for manufacturing RIP cigarettes should be made available to all cigarette manufacturers.

A large majority of Member States requested that the quantified safety requirement, namely that “10 cigarettes out of 40” may burn through their whole length, should be amended to “25%”.

In response to the comments by Member States, the Commission proposed a modification to the draft text, to replace "10 cigarettes out of 40" with "25%". It was agreed to leave determination of test batch size, the issue of a reasonable transitional period and the possible inclusion of roll-on products for the mandate to CEN. The Commission agreed with the Member States that an information campaign to consumers could be useful to highlight also the consumer's own responsibility and underline that RIP cigarettes are not fire-safe, but only extinguish in a majority of cases.

- **Vote**

Observers were asked to leave the room for the vote. 24 Member States voted in favour of the Draft Commission Decision (322 votes for, 16 against, and 7 abstention).

After the vote, observers were invited back to the room.

4. Lighters

- **Standardisation: State of play – draft decision for specific child safety requirements and Mandate to CEN to review EN 19869**

The Commission presented the results of the written procedure for adopting the draft Decision laying down specific child safety requirements for lighters, which received a positive opinion from the Member States. Furthermore, the Commission outlined the procedure for adoption of the mandate to CEN and will take into account, as far as possible, comments on the child panel test, concerns about the term "novelty lighters", the issue of child appealing utility lighters and the exclusion for 'printed' lighters.

- **Draft follow-up decision for extending the validity of 2006/502/EC – discussion**

The Commission presented the proposed extension of Decision 2006/502/EC, with the aim to vote on the draft Decision at the next GPSD Committee meeting early 2008. No comments were received from the Member States.

- **Joint action**

The Commission briefly presented progress with the joint market surveillance action for lighters coordinated by PROSAFE and invited those Member States outside the financial

framework of the Joint Action to participate in the project meetings to keep abreast of the developments, such as those related to the classification of novelty lighters.

- **Results of tests carried out on behalf of the European Federation of Lighter Manufacturers and enforcement of ISO 9994**

The Commission had informed the Member States by email of the LNE report carried out on behalf of EFLM showing high levels of non-compliance of certain imported lighters and requested feedback on follow-up actions taken. Several Member States responded indicating national efforts to trace and test lighters. In the context of the joint action efforts will also be undertaken to test lighters against ISO 9994.

5. Toy Safety

- **Reporting on action points from ad-hoc Toy Safety GPSD Committee Meeting of 3 October 2007**

The Commission presented the follow-up actions from the ad-hoc Toy Safety GPSD Committee Meeting of 3 October 2007 and invited Member States who have not yet provided their contributions to do so as soon as possible. The Commission also presented the reported activities by EU Member States and EEA/EFTA countries related to the Mattel recalls and toy safety in general. For the latter, the Commission requested additional information, in particular on the enforcement capacity question, to be communicated by Member States in order to update the table, and promised to give more indications of the specific data needs.

Several Member States underlined the necessity to ask for the allocation of adequate resources to market surveillance activities with the support of the Commission. They also mentioned the importance of reinforcing the cooperation with customs authorities. The Member States reported on their respective projects in the run-up for Christmas.

- **Targeted measure under the GPSD to enhance safety of magnetic toys**

The Commission recalled the background and outlined the justifications for and questions of possible scope of a targeted measure under the GPSD to enhance toy safety. The Commission considered that the requirements laid out in Art. 13 of the GPSD are met. The Commission proposed an obligation for economic operators of affixing specific warnings on magnetic toys. This would be a temporary measure pending the entry into force of the revised standard. As a follow-up, the Member States will be given a draft text and a time-limit for preparatory inputs before the formal consultation of the Committee. The aspiration is to have the measure adopted within the coming months and therefore the Committee consultation could be scheduled in early 2008.

6. Joint actions and exchange of officials

The Commission presented the results of the 2007 call for proposals regarding joint market surveillance actions and the exchange of officials. For joint actions all five applications received were awarded for a total financial contribution of 1.4 million EUR. For the exchange of officials the Commission received 17 applications for which grants were awarded as well. The Commission thanked the Member States for their active participation in both activities and expressed the hope that also 2008 would see a continuation of their efforts in this area.

The Commission confirmed that participation in the joint actions and exchange of officials programmes could be extended to third countries provided the formal requirements for participation in these programmes are fulfilled.

Issues related to the operation of RAPEX

7. RAPEX statistics (notifications and reactions)

The Commission presented the RAPEX notifications statistics for the period of January to October 2007. In the period of reference, the Commission validated and distributed through the system in total 1.321 RAPEX notifications including: 1.142 Article 12 notifications (serious risk), 11 Article 11 notifications (moderate risk) and 168 notifications for information. The Commission stressed the stable and rapid growth in the number of notifications sent through the RAPEX system and indicated that there has been an overall rise of 56% comparing to the same period in 2006. The Commission also indicated that the Member States have increased their level of participation in the system and that the gap between the Member States with the highest number of notifications and those with the lowest number has decreased comparing to previous years.

The Commission presented statistics on RAPEX reactions from January to August 2007. During those eight months 1124 reactions were received, with a maximum of 210 reactions in July and a minimum of 118 reactions in August. Most of the reactions contained information that the product has been found on the national market. Only in 29 cases the Member State disagreed with elements of a notification. The Commission underlined the importance of reactions to assess the operation of the RAPEX system and mentioned that the European Parliament resolution of 26 September 2007 focused on follow-up and enforcement by national market surveillance authorities in relation to notified products marketed in their territory.

Standardisation

8. Fire Safety issues

• Referencing upholstered furniture EN 1021(parts 1 and 2) in OJ – discussion

The Commission presented the current stage of the work on the standard for upholstered furniture and mattresses

In 1990 the Commission issued a mandate to CEN to produce European Standards on fire resistance of upholstered furniture (including mattresses) both from small (match flame and cigarette) and large ignition sources.

CEN's Technical Committee 207 partly fulfilled the mandate by drafting EN 1021 (parts 1 and 2) and 597 (parts 1 and 2), on the fire resistance of upholstered furniture and mattresses from match flame and cigarette ignition. However, standards from larger ignition sources are still missing. In the meantime, work at CEN TC 207 has come to a halt.

ACFSE (Alliance for Consumer Fire Safety in Europe) has called upon the Commission to officialise EN 1021 (parts 1 and 2) and to request CEN to complete the mandate regarding large ignition sources. In the subsequent discussion, while there is some

agreement in referencing these standards, some member states expressed their concerns on the role of flame retardants, especially for open flame and large ignition sources.

- **Flammability of nightwear (EN 14878): views on the standard**

The Commission gave a presentation on fire safety standard of nightwear. A mandate to CEN was issued in 2000. In the Commission's view, standard produced by CEN does not satisfy the requirements contained in the mandate. In the discussion, some of the Members States supported the Commission's opinion on the standard.

9. Child safety issues

- **Updated LNE study – childcare activities**

The Commission presented the current stage (phase 2: risk assessment) of the childcare and child equipment study and explained the method followed by the consultant in testing of the relevant products.

The Commission will receive the second interim report on 10 January 2008. The final report containing safety requirements will be completed in February 2008.

- **Children's footwear – discussion**

The Commission introduced a preliminary presentation on an issue that the Czech Authorities have brought to the Commission's attention regarding children's footwear. According to a CZ study one third of children that start primary school have damaged feet because their footwear does not comply with orthopaedic basic requirements. The CZ point out that, in view of the different systems existing at national level, covering different aspects relating to children's shoes safety, a harmonized approach in this area is needed

The purpose of the presentation was to highlight the issues at stake and the broad lines of the Czech's proposal in order to have a more articulated discussion in the next meeting.

10. Ladders - update

The Commission gave an update on safety of ladders. Last September CEN TC 93 decided not to take a second vote on EN 131:1993, part 2, after its rejection in March. This implies that the current version of the standard is still the one in force. The Commission is dissatisfied about this situation because its 1999 Mandate to revise EN 131 and address essential safety (in term of stability) requirements for ladders has not been taken into account, despite considerable time and money already invested.

International issues

11. Cooperation with the US

The Commission gave an account of the recent visits of Commissioner Kuneva to the US and the TEC (Trans-Atlantic Economic Council).

The Commission presented the prospects of enhanced cooperation with the US and gave examples of the regular exchange of views and information between the two sides.

12. Cooperation with China

The Commission presented an update regarding the operation of the "RAPEX-China Application" which was launched in May 2006. RAPEX-China provides the Chinese authorities (AQSIQ) with access to RAPEX data covering notifications concerning products of Chinese origin.

The Commission also gave an update on the three reports (December 2006, July and October 2007) received from AQSIQ on their market surveillance and enforcement activities performed on the basis of the RAPEX-China data and on the first meeting of the RAPEX-China Working Group held in China in October. The data showed that 268 out of 932 notifications had been investigated between January 2006 and September 2007 and that measures had been adopted in 43% of the cases (35% were export bans). Furthermore, AQSIQ is constructing an internal rapid warning and investigation platform allowing for quicker and more effective follow-up and reporting to the Commission.

Specifically regarding toy safety, AQSIQ is implementing a four-month programme which has resulted in investigation of over 3000 toy manufacturers and more than 750 toy manufacturers having their export certificates suspended or revoked. A further 690 companies were ordered to renovate their manufacturing facilities and improve product quality within a fixed time period.

Last, the Commission presented the areas where further improvements in the co-operation are necessary and/or envisaged.

13. Multilateral issues

The Commission informed the meeting of a proposal by Japan to investigate a global system for the exchange of information on dangerous products in the framework of the OECD's Committee on Consumer Policy. The Commission also provided feedback on the results of the ICPC meeting held in Istanbul on 27 November 2007, referring to the decision to set up a Chairman's support group, secretariat, website, who-is-who list and monthly email exchange on latest developments in the various jurisdictions.

Miscellaneous

14. Results of the Commission's product safety stocktaking exercise (Autumn 2007) - Discussion

The Commission presented the main elements of the stocktaking exercise, which had the objective to review the strengths and weaknesses of the consumer product safety mechanisms currently in place in Europe and to identify issues for further consideration. The results of the stocktaking exercise were presented by Commissioner Kuneva to the Member States also at the Competitiveness Council.

During the discussion and as regards the needs for enhanced traceability, IE presented the Irish proposal for a system of code and numbers to facilitate identification of manufacturers. The Irish proposal will be circulated.

15. Status of the Internal Market for goods package

The Commission provided a brief status update on the revision of the New Approach package and, in particular, on the vote of the EP Committee on Internal Market and

Consumer Protection, which supports the Commission proposal to preserve the integrity of the successful market surveillance system established under the GPSD for consumer products but proposes to do this via a 'lex specialis' rule instead of providing an explicit exclusion as put forward by the Commission in its proposal.

The Commission invited the members of the Committee to follow closely the legislative process taking place in the Council and the Parliament to ensure that a high level protection of the health and safety of consumers is maintained.

16. Safety of Services – update from Consumer Safety Working Party meeting of 6 November 2007

The Commission provided a brief update on the state of play concerning the safety of services following the Consumer Safety Working Party meeting of 6 November 2007, including the aspect of data collection and the legislation on services safety. Member States were also reminded to send comments on their legislation/measures regarding service safety and on the draft questionnaire for DG SANCO web portal on injury and accident data collection systems.

17. Scope of the General Product Safety Directive and RAPEX, as regards products in service supplier premises

The Commission clarified the issue of the applicability of the GPSD and RAPEX as regards products used in the premises of a service provider. In brief, the Commission informed that:

Directive 2001/95/EC applies to products made available to consumers in the context of the provision of a service, including at the premises of the service provider, if the product is intended or likely, on reasonably foreseeable conditions, to be used by the consumers themselves, as opposed to used (in the physical sense of operated) by the service provider.

The use by the consumers must be an active use, involving an appreciable degree of control (e.g.: operation of a sun-beds in the premises of a solarium, by having the option of pushing the start/stop button, inserting a token, changing the position or intensity during the use). A merely passive use, such as the use of a bus by its passengers, or the use of shampoo by a person whose hair is washed by a hairdresser, does not qualify as use by consumers..

As a result, all obligations incumbent on producers/distributors would be applicable to the service provider, for the purposes of the GPSD.

18. Specific product: sky lanterns

AT provided a presentation on the hazards posed by sky lanterns.

19. Collecting list of specialized test laboratories

The Commission presented the idea of collecting a list of specialized test laboratories. In case of RAPEX risk assessments diverge, this would allow the Commission to quickly request a third opinion from a commonly recognised competent laboratory. IE suggested that some useful references could be found in the notified bodies' lists.

20. Risk Assessment Guidelines – Workshop on 11 December 2007

The Commission reported that the Risk Assessment Guidelines developed by the IRAG Working Group (WG) under the GPSD will be presented at a workshop on 11 December 2007 in Brussels, where participants will also try them out. They might be adopted by the Commission within the overall RAPEX Guidelines in the course of 2008.

21. Scoreboard on consumer markets

The Commission presented the "Consumer Market Scoreboard" as a tool for monitoring and assessment of single market's performance from the perspective of consumers. "Scoreboard" identifies five key indicators to evaluate how markets work for consumers and whether single market delivers for citizens. Member States were encouraged to read a recently published Communication "A single market for 21st century Europe", COM(2007) 724 final, in which the Commission has envisaged a move to a consumer evidence-based approach to single market.

22. Structure of meetings

The Commission proposed that the CSWP (Consumer Safety Working Party) and the PSN (Product Safety Network) be merged to a CSN (Consumer Safety Network) and there were no objections. The work of the GPSD Committee is not affected by this change.

23. Presentation by the Commission on commonly agreed priority control areas under the Customs Code and cooperation between market surveillance and customs authorities

The Commission highlighted the recent changes to the EU customs legislation and encouraged close co-operation between customs and market surveillance authorities in preventing dangerous products from entering the EU market. In particular, the Commission informed that product safety has been chosen as the third 'commonly agreed priority control area' for 2008.

24. Transposition of the GPSD

The Commission reminded the Member States to provide the latest information available about their transposition of the GPSD. This will become subject of bilateral discussions.

25. Dates for next GPSD and Network Meeting

The Commission proposed as a tentative date for the next GPSD Committee meeting 31 January 2008.

26. Web Chat

The Commission informed the Member States that a web chat, "Have a safe Christmas", would be organised with Commissioner on 5 December and appreciated the Member States' help in advertising this event.

