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HEALTH & CONSUMER DIRECTORATE-GENERAL

Directorate B - Consumer Affairs
B3 - Product and service safety

Brussels,
DG SANCO.B.3

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

BRUSSELS – 29 & 30 JANUARY 2009

Introduction

The meeting was chaired by Mr Stefano Soro, Head of Unit 'Product and Service Safety'.

1. Adoption of the agenda

The draft agenda was adopted with a request from Turkey to add an extra point under "Any other business" regarding a counterfeit product of Turkish origin notified through RAPEX. The adopted agenda is attached as Annex 1. Agenda item 25 (Market surveillance – Developments under the New Legislative Framework relating to the GPSD) was deleted.

The attendance list is attached as Annex 2.

2. Adoption of the minutes of the previous meetings

The draft minutes of the meeting of 6 & 7 November 2009 were adopted without changes. The adopted minutes are attached as Annex 3.

Implementation and application of the General Product Safety Directive

3. Lighters : State of play of lighters mandate

Commission representatives gave an update of the situation regarding the mandate on lighters which was submitted to CEN last year in order to revise standard EN13869 on child resistant lighters.

So far CEN has not accepted nor rejected the mandate and at the beginning of December 2008, a CEN ad-hoc expert group met to discuss a possible compromise on the mandate. This would consist of some minor revisions as regards the definition of "producer", "lighter" and the term "novelty", but would not tackle the definition of novelty lighters, documentation requirements or the establishment of technical parameters. CEN would prefer to undertake a feasibility study to investigate the options for technical parameters in parallel to the ongoing minor revision. At the next meeting of the CEN Technical Board in March 2009 a decision should be taken on their position regarding this mandate.

4. Lighters : Discussion and vote on the draft Commission Decision prolonging Commission Decision 2006/502/EC

Prior to the meeting, Member States received a copy of the Draft Commission Decision prolonging the validity of Decision 2006/502/EC on the subject of child-resistant lighters and the ban on novelty lighters, for a further year until 11 May 2010. Member States must take the necessary measures to implement the Decision by 11 May 2009 and to inform the Commission of the measures taken.

As there were no further comments from Member States, the Commission proceeded with the vote. The draft Decision received a unanimous favourable opinion of the Committee.

5. Measures against risks from DMF (dimethyl fumarate) in consumer products

Commission representatives presented for discussion and vote a draft Commission Decision under Article 13 of the GPSD requiring Member States to ensure that products containing the strongly sensitising biocide dimethylfumarate (DMF) are not placed or made available on the market, that such products, if already placed or made available on the market are withdrawn from the market and recalled from consumers, and that consumers are adequately informed of the risk posed by such products. Following an exchange of views on the issue and the draft text, the Commission Decision obtained the support of a qualified majority of Member States. .

There was consensus that a permanent legislative measure is needed for banning DMF in consumer products and that different options are being explored. Following the comments from several Member States, Commission representatives also concluded that informal guidance should be issued with regard to exchanging experience, notably on the analysis of DMF in consumer products.

6. Update on Consumer Market Scoreboard

Commission representatives thanked the Member States for their comments on the draft indicators and presented a status update on the Consumer Market Scoreboard. As discussed during the November 2008 GPSD Committee, only two indicators were published in the Scoreboard: the national market surveillance budget, as a percentage of total national budget and the total number of inspectors expressed as number of inhabitants per inspector.

Commission representatives also informed the Committee that the Consumer Market Scoreboard had been on the agenda of the high-level meeting of the Consumer Policy Network (CPN), which took place in Paris on 4 December 2008. CPN members agreed to the creation of a Joint Expert Working Group, consisting of members from the CPC and GPSD Committees, to develop clearly defined enforcement indicators. The Commission will assume the organisation of the meetings in Brussels and the reimbursement of travel expenses.

7. Application of Article 4 of the GPSD on standardisation

A Commission representative provided information on the interpretation of the provisions of Art. 4 on standardisation and its implication for the work of the GPSD Committee.

According to Article 4, standards adopted after the entry into force of the GPSD in 2002 can be replaced by revised or new versions but they cannot be referenced in the Official Journal (and thereby allow the presumption of conformity) if there is no supporting mandate or if the revision exceeds or does not fulfil the original mandate. This condition has an impact on those standards already published in the OJ, and the Commission will submit drafts (of safety requirements) to the Committee for the cases where such a further step is therefore needed.

8. Future role of the Consumer Safety Network

Before the meeting, DG SANCO circulated a background note to Member States providing information about the future role of the Consumer Safety Network (CSN), as

defined in Article 10 of the GPSD, also in view of the activities of PROSAFE and the establishment of the EMARS projects.

Several Member States argued for the need to maintain the Consumer Safety Network, while agreeing that it was important not to duplicate efforts and that there was a need for a clear definition of the tasks of the different committees. It was suggested that the discussion be continued at the next meeting of the CSN scheduled at the end of March.

9. GPSD Transposition

A Commission representative presented the follow-up actions of the transposition questionnaires and, on the basis of Article 13, asked Member States to confirm in writing the national measures implementing the Decisions regarding novelty lighters and magnets. He also reminded Member States to send their replies to the questionnaire on the implementation of the GPSD and the sanction to economic operators.

10. New global developments on standardisation

A Commission representative outlined how recent cooperation between the EU and its major trading partners around the world has shown that there is a growing demand for globally recognised standards.

Recent initiatives between the EU and China have highlighted the importance of sharing relevant knowledge and data. Knowledge about existing toy standards, in particular, is an action which was supported by the EU, US and China at the Trilateral Summit in November 2008, and closer cooperation in the area of childcare products was identified as a priority.

Global convergence of standards will benefit all parties involved. Moreover, the Trilateral Summit concluded that the parties should exchange information on developments of standards and regulations for children's products to bring them into alignment where feasible.

Standardisation

11. Childcare articles

A Commission representative informed the Member States that the EU and US have agreed to cooperate closely on key childcare articles, not only to improve existing standards, such as the one for baby walkers and high chairs, but also to develop new ones for inherently hazardous products, such as bath aids. She recalled that a contractor has identified a first list of 20 childcare articles for which there are either no standards, or the existing standard does not cover all the risks. For each product a risk assessment has been carried out and blueprints for draft safety requirements have been established. The Commission representative presented the list of articles which have been separated into groups and asked Member States if they agreed with this classification before discussions continue with a view to issuing standardisation mandates in 2009. The Member States agreed with the grouping into four clusters as proposed by the Commission services, namely: products addressing the risks of drowning, sleeping, falls and bouncing, risks to older children and other products.

12. Window hasps

Following previous discussions on this subject in 2008, a Commission representative gave an update on the situation regarding window hasps and thanked FR for providing a detailed study of the risks and accidents involved with these products. According to the statistics received from Member States, it is clear that the risk needs to be addressed.

ANEC has carried out tests on window-locking devices to ascertain whether they are childproof. On the basis of these tests, safety requirements for a standard can be drafted. ANEC stated the importance of distinguishing between integrated window-locking devices and those which are fitted afterwards. As regards the former, CEN is already developing a standard which will soon be ready for comments. Member States were asked to examine the safety requirements by the next meeting and to provide comments.

13. Ladders

The Commission services informed the Member States that the Report with recommendations drafted by the experts' group appointed by the Member States is available on CIRCA. The Commission services encouraged the Member States to comment on this Report as the recommendations will then be sent to CEN to ask for concrete follow-up to the mandate.

14. Reduced Ignition Propensity (RIP) cigarettes mandate

CEN reported that, since it does not have a technical committee (TC) to work on the mandate, it passed the work on to ISO who had set up a Joint Working Group (JWG) of TC 92 "Fire Safety" and TC 126 "Tobacco and Tobacco Products". CEN reported further that a working document had been prepared based on the ASTM standard, which was currently under evaluation by JWG experts in order to determine the amount of work necessary to comply with the mandate. Subsequently the timeline could be determined. The Chair recalled that the mandate suggested the work be completed within two years and that it expected the new standard to enter into force some time in 2011 at the latest. Given that the mandate points clearly in the direction of the existing ASTM standard, already in use in a large majority of U.S. States, Canada and Australia, the planned timeframe should be largely sufficient for CEN to deliver on this successfully

International issues

15. Recent and forthcoming international activities

A Commission representative thanked the Member States who attended the International Product Safety Week in November 2008 in Brussels.

She informed Member States that on 17 November 2008 in Brussels, during the International Product Safety Week, Commissioner Kuneva and Vice-Minister Wei signed revised annexes to the current MoU between DG SANCO and the Chinese administration AOSIQ on non-food consumer product and food safety with a view to strengthening cooperation and exchange of information.

DG SANCO will also relaunch the call for applications from Chinese trainees to come to Europe for internships at the Commission and at the enforcement authorities in the Member States in order to better understand the needs and working methods of the EU.

The Commission speaker provided a brief debriefing of the meeting of the EU-China Regulators RAPEX-China Working Group of 20 November 2008.

She asked the Member States to communicate any bilateral developments with China to create synergies and improve coordination. The Commission delegation in Beijing will establish a mapping of various activities in China for this purpose. The Commission services will report on this during the next GSPD Committee meeting.

The speaker mentioned that the negotiations with Switzerland continue.

She reminded Member States that the regulators' international caucus ICPSC meets on 23 February 2009 in Orlando, Florida, to establish its workplan and prepare a briefing and a workshop to the ICPHSO conference (24 to 27 February) to update the stakeholders on their cooperation.

16. Transparency

A Commission representative reminded Member States that under Article 16(1) of the GPSD, the public has a right to be informed about dangerous products posing a risk to the health and safety of consumers. To fulfil this obligation, the Commission services publishes on the RAPEX website, on a weekly basis, overviews of the new RAPEX notifications. Member States can also publish or distribute such information to interested stakeholders.

Information made available to the public is extracted from but less extensive than a RAPEX notification. It should include only the details specified in Article 16 of the GPSD (i.e. product identification, information about the risks and measures taken to prevent or restrict those risks). As a general rule, the Commission and Member States should not disclose or publish complete notifications with all the data provided about a given product, such as detailed risk description, test report and certificate or detailed list of supply and distribution channels: some of this information, due to its nature, is covered by professional secrecy or data protection rules and as such should be protected from indiscriminate public disclosure. It is also clear, however, that, when taking the required follow-up activities, national authorities are most definitely empowered to inform producers and distributors about the safety problems notified through the system and to engage with them in ad hoc exchanges of information. This allows producers and distributors to check whether their products or supply chain are potentially concerned by such a safety problem.

17. RAPEX Results 2008

A Commission representative gave a presentation of the RAPEX statistics for year 2008. The complete statistics are part of the 2008 RAPEX Annual Report which will be published by Commissioner Kuneva during a media event in April 2009.

In 2008, the total number of notifications rose by 16%. The Commission validated 1866 notifications: 1545 under Article 12 of the GPSD, 10 under Article 11 of the GPSD and 311 notifications for information. 26 Member States of the EU and Norway sent notifications through the RAPEX system.

In 2008, Member States and EFTA/EEA countries sent in total 1745 reactions to notifications distributed through RAPEX. These reactions were sent on 717 different notifications of which: 682 notifications were "Article 12 notifications", 1 notification was "Article 11 notification" and 34 notifications were distributed "For information". All Member States but one and all EFTA/EEA countries sent reactions to RAPEX notifications.

18. RAPEX Guidelines

A Commission representative gave an update of the work on the new RAPEX Guidelines. A first draft has been prepared which includes views and comments received from the Member States. The new Guidelines will clarify the application of already existing provisions (for example the notification criteria, conditions for distribution of notifications for information) and will also introduce new relevant rules which were previously lacking (for example rules relating to confidentiality). The new text is currently being discussed internally and after this the text will be sent to Member States for comments. The document will also be discussed at the next meeting of the RAPEX Contact Points on 4 March 2009, with the objective of adopting the Guidelines in Spring 2009.

A Commission representative further reported that the IRAG Working Group had met for a last time in December 2008 to discuss the comments received from stakeholders in the public internet consultation on the draft RAPEX Risk Assessment Guidelines. The comments were subsequently included in a further revised document which will be sent for a final commenting round to the IRAG WG. The Risk Assessment Guidelines will be merged with the new RAPEX Guidelines referred to above.

19. RAPEX-China

A Commission representative provided a brief debriefing of the meeting of the EU-China Regulators RAPEX-China Working Group of 20 November 2009 and encouraged Member States to participate at the next yearly meetings in Brussels. The meeting allowed participants to discuss the operation of the RAPEX-China system, requirements laid down in EU product safety legislation, and specific notifications on products of Chinese origin.

She gave an update on the operation of RAPEX-China. So far the Chinese authorities (AQSIQ) have investigated 599 cases and measures have been taken in 51% of the cases. The 8th report is currently being translated and will be circulated in CIRCA as soon as possible. The issue of traceability remains one of the key challenges.

Specific Products and Risks

20. Personal Music Players

A Commission representative reported on the recent Stakeholders' Conference on Personal Music Players (PMPs). The presentations and discussions covered the findings of the Scientific Committee on the risks posed by PMPs, the need for further regulation, the technical solutions that industry could apply to avoid hearing damage, precautions that users can take and the next steps to ensure the safety of PMPs.

While different views and preferences were expressed as to whether the scientific advice should be translated into technical requirements or tackled through measures focusing on the safe use of PMPs, there was a general consensus on (i) the fact that SCENIHR's opinion is founded and credible; (ii) the need for further action to address the concerns raised by the scientists and the current usage patterns of the PMPs; and (iii) readiness on the part of all stakeholders to play their part and contribute to further action.

Bearing in mind the complexity of the issue, which requires multifaceted solutions, further action will consist of different technical, regulatory and awareness raising initiatives. DG SANCO considers that, as EU rules clearly spell out, products should be safe and, albeit important, warnings and safety instructions should not be used to avoid safe design.

The Commission services will give serious consideration to the option to propose to the Member States a standardisation mandate, asking CENELEC for a solution that takes into account the scientific opinion and includes limits for sound exposure. Any future regulatory/standardisation action would also need to be complemented by effective awareness-raising efforts.

21. Chemicals in children's pyjamas

A Commission representative presented the results of studies on chemicals in textiles received from FI, NO, NL and CZ. FI and NO have a 30 ppm limit for formaldehyde in textiles intended for children. NL pointed out that if textiles contain more than 120 ppm formaldehyde it has a label "wash before first use". A CZ survey showed that children pyjamas do not contain formaldehyde and phthalates. Results from PL have not yet been received. She explained that in order to manage chemicals in consumer products in general, a temporary measure could be a first step, followed by legislation (as in the case

of phthalates) or a standard (as in the recent case of magnets). For phthalates in children's pyjamas, the amendment of the relevant Guidelines could indeed be an option.

The Commission representative asked Member States to provide their studies, data or limits in national legislation, and to provide their views on the extension of phthalate restriction to textiles.

CEN reported about the development of a standard to determine phthalates in textiles.

22. Nanomaterials in non-food consumer products

Following the 2nd Nanotechnology Safety for Success Dialogue held in Brussels in October 2008, the Commission services had asked Member States to exchange their views on the presence and possible risks of nanomaterials in non-food consumer products. So far only one Member State had reacted in writing. The Commission representative therefore called again upon Member States to provide the relevant information.

CEN indicated that a Technical Committee on nanotechnology was working on this issue and that documents will be provided.

23. Child appealing appliances

Evert van Wilgenburg (Chairman of the ad-hoc Working Group on child appealing appliances) presented the progress under LVD ADCO and CENELEC regarding child appealing appliances. The ad-hoc Working Group is working on this issue and will provide a proposal for definition of child appealing appliances, a protocol on how to identify such products, the requirements that have to be fulfilled and an 'Atlas' of such products.

24. Request for a scientific opinion on health risks posed by food-imitating cosmetics and decorative articles

A Commission representative explained that it will seek the advice of the Scientific Committee on Consumer Products concerning the potential health risks posed by food-imitating chemical products, such as cosmetics. There are a number of issues that need clarification concerning the risk assessment of these products, such as the probability of confusion and ingestion, the toxic properties that can attribute to negative health effects and the probability of serious health risk. Currently there is no common approach between Member States and to ensure harmonised implementation of EU legislation, DG SANCO considers it important to ask for scientific advice. DG SANCO is working on a mandate with DG ENTR, which they hope to submit in March once the new Committee is in place.

25. Flame retardants

A Commission representative provided an update on the preparation of a call for tender requesting a study on flame retardant substances that are used in consumer products. A draft is currently being discussed inside the Commission services in order to achieve agreement on how information on risk assessments of all substances should be structured and covered by the study. Once the draft is approved and translated it is expected to be published at the beginning of March.

Miscellaneous

26. Fire safety in hotels

A Commission representative reported on the process launched by HOTREC, the hospitality industry European association, for the signature of a Charter on fire safety in

hotels by the end of 2009. The 1st meeting of the stakeholder consultative committee meeting, attended by representatives from the EC, EP, ANEC, insurers, tour operators, etc. took place on 21 January 2009 and will be followed by other meetings during the next 6 months in order to discuss details of the Charter and the fire related performance-based methodology. She also announced that the contract related to hotel safety: data collection on accidents/injuries has been awarded. The most important elements of this one-year contract were explained to the Committee. The kick-off meeting will take place on 12 February 2009; the final report is expected in December 2009.

27. Service safety

A Commission representative provided a brief state of play regarding service safety and presented the questionnaire circulated in order to build a repository of existing information on service safety in all Member States and candidate countries. Member States and candidate countries were asked to return the questionnaire by 15 April 2009.

28. GPSD Business Application

A Commission representative provided a brief update on the "Business Application". Since the last GPSD Committee meeting, further technical tests have been carried out and minor corrections are still needed before the competent national authorities are given access to the system. Each competent authority will receive its own user name and password. Access is restricted in view of the confidentiality of the data being notified. The date for going into production will be communicated to Member States in advance. On 2 December 2008, the Commission services requested the contact details of the authorities in charge of receiving and treating notifications on dangerous products sent by producers and distributors. France and Iceland have not yet responded. This information is needed to provide the competent national authorities with the access to the "Business Application" and to publish it on the Commission's website. The contact details published on the website can be updated as necessary and names can be removed upon request.

Any other business

29. Forthcoming meetings

Next meeting of the GPSD :	9 & 10 June 2009 (to be confirmed)
RAPEX Contact Points:	4 March 2009
Consumer Safety Network :	26 March 2009 (to be confirmed)
European Consumer Summit :	1 & 2 April 2009
Rapex Media Event:	April (to be confirmed)

(The Chair made a request for Member States to provide examples of dangerous products for the Consumer Summit and RAPEX Media Event. These can be brought to the meeting of the RAPEX Contact Points on 4 March).

30. Joint actions and exchange of officials

A Commission representative informed the Committee that the two calls for proposals - for joint actions and for the exchange of officials - have been published and encouraged Member States to participate. He also briefly explained the new procedure involving the Executive Agency for Health and Consumers.

The deadline for submission of first proposals for joint actions is 27 February, and 29 May for the final applications. The deadline for applications for the exchange of officials is 2 October 2009, with exchanges having to start at the end of March 2010 at the latest.

PROSAFE presented its process for coming to a list of proposed joint actions and the list itself.

31. Playground equipment joint action

The Polish representative gave a brief presentation on the joint action for playground equipment involving eight participating countries: Bulgaria, Estonia, Denmark, the Netherlands, Norway, Poland, Slovakia and Slovenia. The main results included a handbook for inspectors, which could be adopted at European level, and the recommendation to publish the reference of the standards EN 1176 and EN 1177 in the Official Journal.

32. Market surveillance and awareness raising activity of the Finnish Consumer Agency

The Finnish representative informed the Committee about the "China Center", a large retail park which has opened in Finland. The majority of goods sold are imported from other EU countries but are manufactured in China and many have serious defects. The local authorities have been involved but no progress has been achieved. A meeting was therefore arranged in January 2009 with product safety enforcement authorities to discuss the situation. After the meeting, the participants met with 30 companies from the Center to discuss product safety matters and to explain their responsibilities. The authorities explained that they would be obliged to notify any dangerous products through the RAPEX system. The Finnish Consumer Agency has since provided the companies with a checklist (in Chinese) concerning safety requirements. The situation will be monitored and the Commission services kept informed.

33. Polycyclic aromatic hydrocarbons (PAHs)

DE reminded all the Member States to provide their data, if available, and to share information about their experiences on PAHs in consumer products, including grips of children's bicycles.

34. Counterfeit product from Turkey notified through RAPEX

TR reported on a counterfeit product of Turkish origin that has been notified through RAPEX. The company involved has claimed that the product is not their brand and must therefore be counterfeit. TR wanted to know the procedure for modifying the notification or taking it out of the system. The Commission services advised TR to contact the Member State that had submitted the original notification.

35. Fake CE labels

FR informed the Committee of the existence of a fake "CE" label which represents "China Export". DG ENTR, present at the meeting, explained that the official CE mark will shortly be registered as a Community trade mark and requested information from the Member States on any fake labels they may come across.