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HEALTH & CONSUMER DIRECTORATE-GENERAL

Directorate B - Consumer Affairs
B3 - Product and service safety

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

BRUSSELS – 21 OCTOBER 2009

Introduction

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

1. Adoption of the agenda

At the start of the meeting, three requests were made to add new points to the agenda:

- FI : safety of operational cords on window blinds.
- ES : obligation to provide lists of distributors of products subject to an alert in RAPEX notifications
- ANEC asked to make a statement on the standardisation of mini motorbikes (under the Machinery Directive).

The Chairman said these matters would be discussed if time allowed, under the point 'Miscellaneous'.

The draft agenda was then adopted. The adopted agenda is attached as Annex 1.

The attendance list is attached as Annex 2.

2. Adoption of the minutes of the previous meeting

The draft minutes of the meeting of 15.06.09 were adopted without changes. The adopted minutes are attached as Annex 3.

Standardisation

3. Childcare articles – Cluster 2 – childcare articles in the sleeping environment

The Chairman referred to the draft Commission Decision on the safety requirements to be met by European standards for childcare articles (Cluster 2) in the sleeping environment. These articles include cot mattresses, cot bumpers, suspended baby beds, duvets and sleep bags for children. To date, there are only 3 European standards for such products referenced in the Official Journal of the European Union.

The draft safety requirements, which will be used to provide CEN with a standardisation mandate, aim at improving the safety of such products by reducing the risks of

suffocation, entrapment and choking; setting essential flammability requirements; and providing clearer information and warnings.

During the meeting, the Commission circulated an amended version of the draft Commission Decision, indicating the changes that had been made following comments received before the meeting from certain members of the GPSD Committee. The Commission representative went through the text, explaining the amendments that had been made. Member States were thanked for their contributions and invited to provide further comment on the amendments.

A discussion took place on flammability requirements and the use of chemical flame retardants. The Commission representative stated that the draft safety requirements were prepared on the basis of a risk assessment and, thus, address real life scenarios as regards flammability risks. Following a discussion, Member States agreed to amend the section on "Fire and thermal properties", first to clarify that the absence of toxic fumes is not a sufficient alternative, but cumulative to reduced ignition/slow burning, and also to insert the following phrase: *"the use of chemical flame retardant substances should be kept to the minimum"*. The same sentence will be used for cot mattresses, cot bumpers, duvets, suspended baby beds and sleep bags. Further modification was made to clarify the text on "Microbiological hazards" for cot bumpers. It was also agreed that the word *"shall"* would be changed to *"should"*, throughout the text where reference is made to the use of chemical flame retardant substances, *"shall"* inferring that the requirements are mandatory.

The Commission then invited the Member States to vote in order to proceed to a formal opinion. The Committee voted in favour of the draft Decision.

The Chair invited the delegations to verify the quality of the translations of the draft Decision circulated before the meeting and return their comments to the Commission.

4. Role and objectives of Standardisation under GPSD

This agenda point was requested by the Finnish authorities following discussions in the GPSD Committee on safety and standards for babywalkers and bath seats. Finland's view is that European standardisation of such products, which are currently less common in some markets, may lead consumers to think that the product is safe and even endorsed by the EU, despite the risks. Finland therefore suggests a more general discussion on the role of selecting products for developing European (harmonized) standards. The Finnish authorities emphasized the need to consider technical safety, consumer behaviour and risk assessments when preparing Decisions for standardisation mandates. A discussion document from the Finnish Delegation was circulated prior to the meeting.

The following comments were made during the ensuing discussion:

- The role of standards is limited to safety requirements with the objective that only safe products are offered to consumers, not whether a product is considered essential or advisable.
- The procedure for standardisation will be improved once the GPSD is revised;
- Member State authorities are encouraged to participate more actively in the standardisation process, either by participating in CEN Technical Committees, national committees or by commenting on standards during the five-month public enquiry;

- Standardisation is considered to contribute positively to consumer safety, but Member States have to decide themselves if a product is dangerous and ensure, via communication efforts, that consumers are well-informed in order to make the right decisions;
- Colleagues from the Standardisation Unit of DG Enterprise and Industry and the Secretary-General of CEN are to be invited to participate in an exchange of views, as a basis for reflection on this topic, at a future meeting of the Consumer Safety Network.

5. Lighters

A Commission representative provided an update on the subject of lighters. Last year, CEN accepted a Commission mandate on the revision of EN 13869. The work involves, in the short-term, a revision of the term "novelty", and the definitions of "producer" and "lighter". In the long-term, a research project is to be carried out on the feasibility of technical parameters to replace the child panel test.

A first meeting of the CEN Project Group (PG) for lighters took place in Paris on 1 September to discuss several issues including the above-mentioned definitions, and the PG agreed to revise the text for those elements of the standard. As regards the revision of technical parameters to replace, when possible, the child panel test, a second meeting will take place on 16 December 2009. There are opposing views concerning documentation requirements and a written procedure is ongoing in the project committee in order to make a decision about this issue.

Progress has been made on short-term elements only, but a revised standard will not be adopted soon. The temporary Decision 2006/502/EC should therefore be renewed for a further year. The GPSD will most likely be consulted by written procedure on this. Further discussion will take place next year and Member States were asked to start considering their position regarding the acceptance of a revised standard which only includes the short-term elements and the documentation requirements.

6. Ladders

A Commission representative provided a brief update on ladders. A revised version of the standard will soon be published and work has started on a new version of the standard, which incorporates all the safety and stability requirements mentioned in the mandate. Completion of the work should be carried out in less than 2 years.

7. RIP cigarettes

A Commission representative reminded participants that CEN accepted the mandate on RIP cigarettes on 29 August 2008, asking CEN to provide a standard that includes the fire safety requirement 'No more than 25% of a batch of cigarette specimens to be tested shall burn through their whole length.' as well as the appropriate testing method to check that cigarettes on the market comply with that requirement. CEN has given the work to ISO who are developing the test method and it is hoped that ISO will deliver in the Spring 2010. A standard including the fire safety requirement should be ready and delivered by CEN by August 2010 and referenced in the Official Journal of the European Union shortly afterwards. The Commission is closely following developments to ensure that the standard will be ready in good time.

The Finnish authorities informed the meeting that their national legislation for RIP cigarettes will come into force in Finland on 1 April 2010.

Implementation and application of the General Product Safety Directive

8. Revision of the GPSD

A discussion took place about the future revision of the GPSD.

The objectives of the revision are set out in a working document which was made available to Member States (via *Circa*) prior to the meeting. The Commission representative went through the document drawing attention to the key issues, including the need for greater clarity and alignment of the GPSD with the general principles of the New Legislative Framework Regulation. Other areas that need to be addressed in the revised GPSD are traceability, standardisation procedures, which are more complex under the GPSD, Community emergency measures, the use of RAPEX, differing risk management and risk assessment approaches in the Member States, e-commerce and the safety of services.

As regards the timeline, a Commission proposal should be ready in the first part of 2011, following extensive consultations, including a public consultation at the beginning of 2010 and an impact assessment which is due to be carried out next year.

The floor was then opened for Member States to discuss the revised GPSD. Some Member States raised doubts as to whether the issue of service safety should be covered by the GPSD review or dealt with separately, but in general Member States agreed with the issues identified. The Chairman invited further contributions in writing.

Issues related to the operation of RAPEX

9. RAPEX and the New Legislative Framework Regulation No. 765/2008

An update on the state of preparations for the implementation of Article 22 of Regulation 765/2008 was presented by Mr. Jacques McMillan from the European Commission's Enterprise & Industry Directorate-General (DG ENTR).

The NLF Regulation is restricted to serious risks only, but during the negotiation process the European Parliament insisted on using only one rapid alert system which would cover dangerous consumer and professional products as well as other risks, for example, risks to the environment. The safeguard clause also has to be taken into account. As the current RAPEX application (REIS) has reached full capacity, it was decided that technical work on the part of the system to be used for the purpose of the Article 22 notification procedure should wait until the new RAPEX application (GRAS) is operational. Meanwhile, the IT team of DG ENTR is carrying out gap analyses and becoming familiar with the GRAS application being established by DG SANCO. Interservice meetings will shortly take place to discuss how the system will be managed. Unfortunately, the application to be used for the NLF Regulation will not be ready by the deadline of January 2010, but the objective is to take all major decisions by the end of this year so that the transition to the new system runs smoothly. If necessary, interim measures may have to be considered so that the system functions outside the RAPEX system.

On 17 December there will be a special meeting of the SOGS working group, where Member States can inform the Commission about the implementation of the regulation in January 2010.

Some Member states expressed their concern about the quality and accuracy of a study on market surveillance commissioned and issued by the European Parliament.

10. Draft Commission Decision laying down guidelines for the management of the Community Rapid Information System "RAPEX" established under Article 12 and of the notification procedure established under Article 11 of Directive 2001/95/EC

A Commission representative reported on the state of play of the procedure for adoption of the new RAPEX Guidelines and presented the conclusions of the comitology (advisory) procedure carried out in September 2009.

The Commission informed that on 21 September 2009, the GPSD Committee gave a favourable opinion to the draft Commission Decision laying down the new RAPEX Guidelines and that the draft decision was unanimously supported by all Member States.

At the last meeting of the RAPEX contact points on 30 September 2009, the Commission gave a detailed presentation on the new Guidelines and addressed the comments which had been received from Member States during the consultation process.

The new Risk Assessment Guidelines for Consumer Products (Annex V of the revised RAPEX Guidelines) were presented separately by a Commission representative who highlighted the 6 different steps to be taken into account when making a risk assessment according to the new method, and emphasised the need for transparency when providing information.

Specific Products & Risks

11. Personal Music Players

A Commission representative updated participants on the subject of personal music players (PMPs). A mandate to develop new safety standards was sent to the European Standardisation bodies on 28 September 2009, amongst much media interest. The mandate is based on the safety requirements contained in the Commission Decision adopted in June, notably ensuring that exposure to high sound levels is limited to avoid hearing damage and that users are provided with sufficient warnings and information on the risks of hearing damage. Comments received from Member States at the 98/34 Committee have also been taken into account, clarifying the fact that safe exposure levels are to be set as the default on PMPs and ensuring that earphones used with PMPs are included in the subsequent work carried out by CENELEC's technical committee. Adoption of the standards is foreseen 24 months after acceptance of the mandate.

12. Heavy metals in jewellery

A Commission representative provided information on a study submitted by the Danish Environmental Protection Agency (EPA) and the ensuing mandate submitted to the

Scientific Committee on Health and Environmental Risks (SCHER) on 18 September 2009.

In an analysis of heavy metals released from jewellery, 4 metals migrated in concentrations above the detection limit: cadmium, copper, nickel and lead. These metals were selected for exposure and risk assessments. The results showed that potential health risks could arise from wearing or sucking jewellery containing cadmium, nickel and lead but no health risk was identified for copper.

As regards regulatory actions, an EU limit for nickel in jewellery does exist under the REACH Regulation and one for cadmium is about to be established, but, at present, no specific limits apply for lead in jewellery at EU level. A mandate was therefore issued to SCHER requesting that the committee examine the Danish study, offer an Opinion on whether there are reasons for concern arising from the exposure of consumers from jewellery containing heavy metals and stating whether safe exposure limits can be established. Meetings of the working group will take place with a view to adopting an Opinion by 24 March 2010.

13. Mercury in energy-saving lamps

The Commission representative outlined the issues covered by the mandate submitted to SCHER on mercury in energy-saving light bulbs. The potential risks posed by these products were presented from both a health and an environmental perspective. SCHER was asked about the severity of the risks involved, whether there are any alternatives to mercury, other techniques and their risks, and whether the maximum limit of 5 mg should be lowered to reduce the risks. The deadline for SCHER to issue an Opinion is by end of March 2010. Member States may contact the Commission if they wish to see a copy of the mandate.

International issues

14. Recent and forthcoming international activities

China: A Commission representative gave an update on the operation of the 'RAPEX-China' system, presented statistics concerning RAPEX notifications investigated by AQSIQ and outlined recent positive developments in China regarding "RAPEX-China" operation. Ten follow-up reports have so far been submitted by AQSIQ in relation to RAPEX notifications exchanged through the "RAPEX-China" system during the period September 2006 and May 2009. AQSIQ has in that time completed investigations concerning 894 notifications. Still, the biggest challenge for AQSIQ in ensuring appropriate follow-up to RAPEX notifications is to trace Chinese companies involved in the manufacturing and or exporting of dangerous products to the EU.

The Commission also provided an update on missions and meetings to take place with the Chinese authorities by the end of the year:

- 24-30 October 2009 - joint DG SANCO/ENTR mission to China to provide training on risk assessment and attend a meeting of the Toys Safety Working Group.
- 'RAPEX-China' Working Group (December 2009 – to be confirmed, subject to Chinese authorities' availability). Topics for discussion include the operation and recent developments in the 'RAPEX-China' system as well as EU safety rules and risk assessment in the context of concrete RAPEX cases. Member States are

encouraged to actively participate in the Working Group in order to contribute to the discussions on specific cases.

US: In July, the Commission adopted the "Draft recommendation from the Commission to the Council in order to authorise the Commission to open negotiations with the United States of America for an agreement on cooperation and information exchange in the area of consumer product safety". It is hoped that the Council will formally give its agreement to the negotiation directives by December 2009 at the latest so that the Commission can start formal negotiations. In the meantime, informal talks with the US Consumer Product Safety Commission (CPSC) have started so as to start testing where common understanding can be found (especially as regards the confidentiality issues). Commissioner Kuneva is attending the Transatlantic Economic Council (TEC) in Washington on 27 October and is likely to mention the expected benefits of such an agreement in terms of consumer protection.

Canada: There may be an opportunity to include a provision on consumer policy in the future economic and trade agreement with Canada. This could provide a basis for further cooperation (including information exchange) with Canada who already enjoys close cooperation with the US. This idea is being explored informally with Canada.

OECD: Preparatory work is underway on an analytical report on possible improvements to cooperation and information sharing. The report should be finalised by the end of this year and its findings will be discussed at a workshop at the ICPHSO conference in Washington DC in February 2010. It is hoped that the meeting will help to develop mechanisms for the sharing of information.

ICPSC: This informal network of international product safety regulators met in Stockholm on 9 September to discuss various issues of mutual interest, including product traceability, recall effectiveness and collaboration with universities under the Masters Programme funded by the European Commission.

Shanghai Expo 2010: The Commission representative informed Member States about the Consumer thematic day planned in Shanghai from 25-26 October 2010 in the context of Shanghai Expo, which runs from May to October 2010. Member State representatives will be invited to participate, along with Chinese authorities, stakeholders and US representatives. Further information will be provided at a future date but Member States were invited to take note of the date in the meantime.

Norway added a further date for the diary: the PROSAFE Safety Week will take place from 30 November until 2 December 2009 in Brussels. Further information will be available on the PROSAFE website.

Miscellaneous

15. GPSD "Business Application"

An update on the "Business Application" was provided by a Commission representative. The application went into production on 4 May and, to date, 23 notifications have been submitted and accepted. A short overview of the notifications received was distributed during the meeting.

The Commission is satisfied with how the application is functioning and there have been no technical problems. An overwhelming majority of notifications submitted are of good quality and they contain complete information. The next steps are to continue monitoring the operation of the application and to promote its use.

Further comments received from Member States will be taken into consideration and presented to the developer of the project when work begins on a 2nd version.

16. Latest retailer and consumer Eurobarometer results

A Commission representative presented the findings of two Eurobarometers which were carried out in 2009 on consumers' and retailers' attitudes towards product safety. During the survey, both consumers and retailers were asked a number of questions on their perception of the safety of non-food products.

In comparison to 2008, there is an increase in the percentage of consumers who consider that a significant number of non-food products are unsafe - 25% of respondents in 2009 vs. 18% in 2008. It was noted that consumer confidence varies from country to country. When asked about their sources of information on safety, consumers stated that product labels and notices were the most commonly used. Consumers in the Member States were also asked about their reactions to product recalls. It was noted that the number of consumers aware of product recalls has declined since 2008.

As regards retailers, there are no major differences in the findings of 2008 and 2009. 58% feel well-informed about product safety legislation, although when tested on their knowledge a small percentage still replied incorrectly. Retailers were also asked about enforcement and market surveillance in the field of product safety.

The detailed findings of the Eurobarometers will be published on SANCO's website in November.

17. Enforcement indicators

A Commission representative gave a short update on the work being carried out in the field of enforcement indicators. Comments from Member States have been taken into account and a questionnaire on how enforcement is carried out in the Member States was sent out in August (deadline for reply: 31 October). This data is of particular importance in view of the review of the GPSD and the Commission looks forward to receiving replies from the Member States. A report will be presented at the beginning of 2010.

18. Joint actions

The Commission provided an update on the joint actions which are to receive funding in 2010. A recent call for proposals for joint actions produced a number of applications. After an evaluation of the replies, four of the five joint actions proposed were granted funding. These cover babywalkers, helmets, child-appealing appliances and sunbeds. Unfortunately, this year funding is unlikely to be available for lighters.

The Executive Agency for Health & Consumers is now finalising the procedure and grant agreements are due to be signed shortly. The Commission thanked the Member States participating in the joint actions and invited them to participate also next year.

19. Exchange of officials

The Executive Agency for Health & Consumers has received 22 applications for the exchange of officials, which they are currently evaluating.

20. PROSAFE

An extensive update on the work of PROSAFE is to be presented at the Consumer Safety Network meeting on 22 October. The Commission representative announced that PROSAFE is organising a number of meetings in Brussels during the first week of December, including a final workshop for joint actions on lighters, cords and drawstrings, and sunbeds on 30 November. On 1-2 December there will be an EMARS II workshop to which Member States are invited.

The Norwegian representative announced that PROSAFE has recently changed its structure and is now split into two parts: "Stichting PROSAFE" is the formal organisation based in the Netherlands, and there is a more informal part which, among other things, holds discussions with Member States on joint actions. A Charter will be formally presented at the PROSAFE Product Safety Week in Brussels on 30 November.

Any other business

Business representative at GPSD meetings: The Chair updated participants on the recent decision to invite an observer from the business sector to attend GPSD meetings. The Commission has written to three relevant business organisations (BusinessEurope, EuroCommerce and UEAPME), who each wish to send a representative instead of agreeing on one common representative. The Chair asked the Member States for their opinion and it was agreed that 3 business observers could be invited to attend future meetings.

Miscellaneous

DMF : The Commission appealed for information from the 2 Member States who have not yet communicated their instrument for implementation of the DMF Decision.

Cords for Window Blinds: the Finnish delegation raised the issue of cords for "Roman" and "Venetian" window blinds which have caused serious accidents in both the US and Europe. A specific standard has been developed in North America which includes manufacturing requirements as well as warnings and other information for consumers. Finland proposes that an EU standard should be developed to improve the safety of these products and asked for the opinion of other Member States. The Chair replied that this point would be discussed at the next meeting of the GPSD/CSN. In the meantime, Member States were asked to send any data on accidents, injuries or technical solutions to Finland (with a copy to DG SANCO).

RAPEX: The Spanish representative requested clarification on whether the notifying Member State should, in its RAPEX notification, provide detailed information about the importers and distributors of the notified dangerous product who are established in other

Member States. The Chair explained that such an obligation stems directly from the provisions of the GPSD and the to-be-adopted Commission Decision laying down the new RAPEX Guidelines.

Mini-motorbikes: The representative from ANEC announced that CEN is working on a draft standard for mini-motorbikes for use on non-public roads, but commented that discussions are not proceeding very well as the working group developing the standard will not insert age and speed limits. The committee working on this issue is dominated by industry and there is only one consumer representative (from France). ANEC urges Member States to take appropriate action when the standard is made available for public consultation.

Annex 1: Draft Agenda

Annex 2: Attendance List

Annex 3: Adopted Minutes of Meeting of 15 June 2009