



EUROPEAN COMMISSION
HEALTH & CONSUMER DIRECTORATE-GENERAL
Directorate B - Consumer Affairs
B3 - Product and service safety

Brussels,
SANCO/B3/DMO/cj

**SUMMARY RECORD OF THE MEETING OF THE COMMITTEE OF
DIRECTIVE 2001/95/EC ON GENERAL PRODUCT SAFETY
BRUSSELS – 26 MAY 2011**

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. At the request of a representative from Germany, an additional point on the subject of live plants and cut flowers was added under AOB. A copy of the adopted draft agenda is attached (Annex 1). An attendance list is attached (Annex 2).

2. Adoption of the minutes of the previous meeting

The draft minutes of the meeting of 09.02.11 were adopted. The adopted minutes are attached (Annex 3).

Implementation and application of the General Product Safety Directive

3. GPSD Revision

The Chair updated Member States on the ongoing work on the revision of the GPSD.

Four targeted stakeholder meetings took place between January and March 2011.

The European Parliament adopted a Resolution on the revision of the GPSD and market surveillance on 8 March. The key conclusions of the Resolution are set out in the presentation available on Circa.

On 13 April 2011, a Communication on the Single Market Act was adopted by the Commission. The Communication includes an action to boost consumer empowerment by mentioning the revision of the GPSD and providing that a multiannual Action Plan on market surveillance, drawn up by the Commission in cooperation with customs and market monitoring authorities, should be implemented by Member States.

The next step in the revision process is the drafting of the Impact Assessment Report by the Commission. A draft proposal is expected to be presented to the College of Commissioners by early 2012.

Certain Member State representatives raised concern about the method of alignment of the GPSD with Regulation 765/2008, particularly as regards market surveillance issues. The Chair assured Member States that they would be involved in the discussion at all stages.

Standardisation

4. Draft Commission Decision on the safety requirements to be met by European standards for bicycles

A copy of the draft Decision was circulated to Member States in advance of the meeting and Hungary, Germany, Sweden and ANEC had submitted comments in writing to the Commission before the meeting.

Hungary referred to a child's bicycle without pedals and queried whether such a bicycle should be considered as a toy. However, the Hungarian representative stated that the new Toy Directive excludes bicycles with a saddle higher than 435 mm, so in such cases the GPSD should apply. CEN and ANEC agreed that the child's bicycle illustrated in the document submitted by Hungary was a toy intended to bear the weight of a child, as indicated by the Commission in its reply to the Hungarian authorities. The Chair suggested that, in case of further doubts, Hungary could raise the issue at the Toy Safety ADCO.

Germany's comments concerned the maximum load capacity for bicycles, the presence of at least two independent braking systems required on bicycles for adults, and the fitting of luggage carriers and child-seats. Comments by Sweden and ANEC also concerned braking systems.

During the ensuing discussion, it was generally agreed that marking individual bicycles with the maximum weight of the rider should be avoided; but rather a general, overall maximum load could be indicated for all bicycles. Detailed solutions should be left to the standardisation bodies. The need for two separate braking systems was supported by a vast majority of Member States. While some agreed that backward pedalling may be popular and effective for children, back braking systems are not sufficient on their own because if the bicycle chain breaks there is a need for a second braking system to come into play. The representative from the Netherlands stated, however, that in the Netherlands a single braking system (a back pedal brake) is permitted.

The representative from CEN introduced the Chairman of Technical Committee (TC) 333, who was attending the meeting. He confirmed that the Committee is in favour of two separate braking systems even on children's bicycles. As regards weight indication, the Chairman of TC 333 confirmed that the standard includes the obligation for producers to provide information to consumers regarding permitted total weight in the instructions, rather than proposing a specific weight for all product groups in the standard itself, etc.

Certain Member States thought that information about maximum weight would be lost over time. The representative from Denmark thought the weight indication could be mentioned clearly on the bicycle itself but that it should only be necessary for certain bikes which have a special use, such as racing bikes. The Chair concluded that the experts in CEN's technical committee should decide how to indicate the total permitted load.

Regarding the positioning of luggage carriers and child seats, CEN – addressing concerns raised by a Member State representative - confirmed that national legislation has priority over standards.

Finally, in reply to a comment from ANEC concerning permanent, fixed reflectors on bicycles for young children, a Commission representative pointed out that this is already foreseen in the general requirements for all bicycles and therefore it is not necessary to add these requirements to a standard for bicycles for young children. CEN added that reflectors should comply with the legislation of the country in which they are sold.

The Chair confirmed that the vote on the Commission Decision would take place later in the day on the basis of a modified version to take into account late comments and the outcome of the discussion.

The Committee voted in favour of the Draft Commission Decision.

5. Recent Decisions in the area of standardisation

A Commission representative updated participants on the state of play regarding recent Commission Decisions. The Commission Decision on safety requirements for window blinds was under scrutiny by the European Parliament and the Council until 9 June. The Decision on safety requirements for stationary training equipment was also under scrutiny until 4 June. As regards the safety requirements for gymnastic equipment, the period of scrutiny ended on 11 May and no objections had been received.

6. Ethanol Stoves

The Chair thanked the representative from Denmark for preparing a first draft of the safety requirements for open stoves and fireplaces using alcohol fuel which was available on Circa prior to the meeting.

The representative from Denmark gave a short presentation to provide the background to the requirements which stem from research conducted by several Member States. This research identified different types of stove available on the market at different prices. Larger, more complex, more expensive models are used as supplementary heating systems and therefore raise the question as to whether they should be covered by the GPSD or the Constructions Product Directive. Smaller, less expensive models are used for more decorative purposes.

According to the type of stove, requirements may vary. Open stoves can be used both outdoors and indoors and so the choice of fuel is important. The German and French standard covers both fluid bio-ethanol and a gel-type ethanol but it should be made clear in the mandate that the gel-type is for outdoor use only since it contains particles which are unhealthy for use indoors. CEN has already taken this aspect into account in its document on fireplaces for liquid fuels by proposing to draft three different standards. The Danish representative explained that specific limits for emissions are not yet included in the draft decision as these will need to be considered by the relevant technical committee. However, the document circulated does contain requirements as regards construction, design and the type of materials used. Maximum and minimum operating times are important as it was pointed out that a large number of incidents related to these products occur during refilling. Markings, warnings and instructions are therefore essential and the fuel type should be specified by the manufacturer. It was also underlined that a test method needs to be developed, not only to allow producers to demonstrate the safety of these products but also to allow national authorities to make safety checks themselves.

The representative from Denmark informed the GPSD Committee that it should now comment on the essential safety requirements listed in the document so that the Commission could prepare a draft Commission Decision and present it for a vote in the committee. Member States are also encouraged to participate in the relevant working group within CEN (CEN TC 46/WG 2).

7. Air Fresheners

A Commission representative gave a brief update on the activities of industry regarding scented candles. The International Association for Soaps, Detergents and Maintenance Products (AISE) has started to assess the burning behaviour of candles by carrying out tests both inside and outside an emission chamber. The next step will be to measure the emissions of formaldehyde and benzene. The first results of these tests will be made available in October and it is hoped the project will contribute to the development of a test method.

8. Personal Music Players

A Commission representative provided an update on the development of a standard for personal music players.

The standard developed by CENELEC passed a formal vote by the national standardisation committees at the end of last year. It has been published as an amendment to two existing standards. The representative outlined the approach adopted in the new standards, which was presented in detail to the GPSD Committee in June last year. The standards meet the safety requirements set out in the Commission Decision as they protect users from hearing damage, make users aware of the risks involved and provide warnings when the exposure level poses a risk of hearing damage.

There will be a transition period of 24 months. The latest date by which the standards have to be implemented at national level is 24 January 2012. Any conflicting national standards will have to be withdrawn by 24 January 2013.

The references of the standards will be published in the Official Journal of the European Union. Publication under the Low Voltage Directive (LVD) and the Radio and Telecommunications Terminal Equipment (R&TTE) Directive will take place in the coming months. In order to publish the standard under the GPSD, a draft Commission Decision and a draft Communication have been prepared and sent to Members before the meeting. In the coming months, the Decision will be presented to the GPSD committee for opinion by written procedure.

The CENELEC working group will now continue its mandated work, looking at improvements to measurement methods and possible solutions based on measurement of sound dose.

9. Laser products intended for consumers

A Commission representative presented the proposal for safety requirements for laser products, stressing that the document already submitted to Member States is a first draft and that further discussions with Member States are necessary.

From a legislative point of view, all battery-powered laser products are covered by the GPSD, whilst mains-powered laser products are covered by the LVD. The existing standard provides for warnings and safety information, but does not restrict specific classes of laser products which are intended for consumers. National market surveillance authorities consider that products higher than Class 2M should not be made available to consumers. A table showing national restrictions on the sale of laser products to consumers was sent to Member States before the meeting and an updated version will soon be circulated taking into account the latest information received from the delegates.

The Commission representative reminded the Committee of the different laser classes. He stressed that for each class the accessible emission limits refer to accessible laser radiation, ie. the situation whereby a laser beam can enter the eye of the user. If a laser is not accessible to the user, for example in the case of a DVD burner, it does not pose a risk.

The proposed way forward is to issue a mandate to CENELEC to update the existing standard (EN 60825) under Article 4 of the GPSD. It could be envisaged to issue a joint mandate under the GPSD and LVD in order to cover both battery and mains-operated products, but this depends on the outcome of discussions with the LVD Working Party.

As regards the proposed draft safety requirements, the definitions will be exactly the same as in the existing standard. Child-appealing laser products shall not be higher than Class 1; other laser products made available to consumers shall not be higher than Class 2M unless it is essential for their specific function. Concerning this latter requirement, the Commission asked Member States for their opinion on the necessity for certain lasers to be higher than Class 2 in order to be functional.

A Commission representative said that an initial consultation with the LVD Working Party had taken place and, while they support restricting the class of consumer laser products, they believe that the restrictions should not affect the function of the products. A more specific consultation with the LVD Working Party will take place when the definition of the safety requirements under the GPSD has been completed.

Finally, Member States were informed that once the essential requirements are established by the GPSD Committee, a first draft mandate on GPSD and LVD products will be circulated.

The floor was then opened for discussion.

The representative from BusinessEurope made the following comments on behalf of the business sector:

- there is no reference to the "sunshine directive" on optical radiation for which draft guidelines are in preparation which include information on classification and risk analysis;
- with regards the problem of blinding pilots of aircraft, it is believed that this could be due to consumers obtaining professional equipment and so there is concern that for construction work that this type of laser might be banned;
- business agrees that laser products higher than Class 2 should be permitted where their function requires that intensity, but other measures are necessary to restrict the risks.

Several Member States agreed there was a need to consider the function of the laser product when considering restrictions on the class. The representative from the UK commented that laser distress flares and professional lasers should not be restricted and the representative from Denmark used the example of laser hair removal products as an example of a different kind of product sold to consumers that needs to be considered.

A representative from CEN reported that a meeting of CENELEC's Technical Committee 76 had taken place the previous day and that they were in favour of the work to revise the standard and that they would send detailed comments soon.

The Chair informed Member States that the Commission would continue with the procedure and that they would be consulted on a revised version of the safety requirements before voting.

Specific Products & Risks

10. Chemical risks in RAPEX: Examples of risk assessments

A Commission representative gave an overview of chemical risks that have been notified through RAPEX and provided the minimum concentrations for such chemicals to pose a serious risk. A copy of the presentation is available on Circa.

Member States were asked whether it would be useful to compile an informal collection of RAPEX chemical risk assessments for future guidance.

The representative from BEUC stated that the collection of such information would be useful for market surveillance authorities and asked that combinations of chemicals in different products also be taken into account when guidelines are drafted. A Scientific Committee Opinion on this subject will be available in June. This viewpoint was shared by ANEC, who added that the examples presented indicate the lack of a legal framework for chemicals in consumer products. A joint ANEC/BEUC event on this topic will take place in October and invitations will follow.

Following the Chair's reference to a number of RAPEX notifications concerning products containing Chromium VI, the representative from the Netherlands offered to seek the assistance of Dutch risk assessment experts to continue with the work to find an EU benchmark for Chromium VI.

The representative from the Netherlands also commented that a risk-based approach for market surveillance purposes could lead to some businesses only focussing on maximum risk levels.

11. Fire safety of domestic consumer products

A Commission representative referred to a number of initiatives so far taken in the area of fire safety including a report on flame retardants whose preparation started in January 2010. The final report is expected in June this year; the results presented at the meeting were therefore still preliminary.

The project responded to two questions, one concerning the safety of flame retardants in domestic consumer products and the other, the link between non-flammability requirements and fire deaths. The first step was to identify possible uses of flame retardants and their potential risks. Risk assessments of the flame retardants were carried out, but this first phase, which looked at the effects on human health and the environment, did not provide a definitive view of the risk but highlighted areas where further work is needed. Four groups of flame retardants were put together following this first assessment (the substances are listed in the Commission's presentation on *Circa*).

As regards the link between non-flammability requirements and fire deaths, the report found that not all Member States keep such statistics but the contractor identified some trends and concluded that there is no link between national non-flammability legislation and the number of fire deaths.

The report has helped to identify possible work priorities in the future, such as looking closely at all the data available under REACH in order to have a more complete, science-based view on flame retardants. The Commission underlined that any possible future action would have as a pre-requisite proper, fully-fledged scientific risk assessments.

The representative from Norway informed the Committee of an ongoing project in Norway aimed at finding ideal requirements for flammability of domestic products and the possible impact of flame retardants on health and the environment. The project will be finalised next year.

EuroCommerce's representative from IKEA urged the Commission to not only look at flame retardants but also at other alternatives such as the weaving of textiles and offered to share its information on fire safety of upholstery with the Commission.

Issues related to the operation of RAPEX

12. Publication of RAPEX Annual Report 2010 and feedback from the RAPEX Media Event

A Commission representative gave a brief account of the RAPEX Media Event which took place in Brussels on 12 May 2011.

This year there was a joint press conference with Commissioner Dalli and Chinese Minister Zhi, who had come to Brussels for further talks about cooperation between AQSIQ and the EU. Commissioner Dalli presented the operation of the RAPEX system in 2010. He took note of more active enforcement by Member States but stressed the need for continued efforts as there are still a lot of dangerous products being placed on the market. The Commissioner also stressed the concept of safety at source. After the conference, Commissioner Dalli visited the exhibition of dangerous products along with several journalists.

The recent joint action on helmets was also promoted at the media event. The Commission representative thanked PROSAFE and the Swedish laboratory for providing samples of non-compliant helmets, which had attracted quite a lot of high-profile media attention, with generally positive messages. He also thanked those Member States who had provided dangerous products for the event, which had meant that new products could be exhibited this year.

13. Participation of Member States in RAPEX in 2011

The statistics on RAPEX notifications and reactions presented by a Commission representative at the meeting indicate that participation of Member States in the RAPEX system is down in 2011 compared to previous years. The Commission is keen to know the reasons behind the decrease and what help it could possibly offer and asked Member States for their views.

Possible reasons given by Member States included budget constraints, lack of resources and the impact of the new risk assessment guidelines which could lead to Member States placing more emphasis on quality than on quantity.

The Chair reported that the issue would be raised at the Director-General level CPN meeting in June.

International issues

14. a) International activities

US: The presentation of the state of play of the negotiations with the US for an agreement on product safety was restricted to Members of the GPSD.

China: A meeting of the RAPEX-China Working Group took place in Brussels on 10 May (see below). On 12 May, Commissioner Dalli also met with Chinese Minister Zhi to discuss issues relating to the RAPEX system. Both agreed that cooperation between the EU and AQSIQ has been fruitful and they gave their support to the joint actions planned between the EU and China. During the meeting, Commissioner Dalli also called on China to continue to follow up RAPEX notifications.

RAPEX-China Working Group

The 6th RAPEX-China Working Group took place on 10 May. A copy of the minutes has been circulated to Member States. On this occasion, the Commission was unable to discuss specific RAPEX cases with AQSIQ as the expert responsible was unable to attend the meeting. The Commission mentioned the decrease in follow-up actions which was noticed in the period between the publication of the 15th and 16th reports. This issue had been raised in an exchange of letters between Commissioner Dalli and Minister Zhi and the following reasons were provided: lack of data to allow adequate follow-up and the need for more time to investigate certain cases and report results.

Another issue discussed at the meeting was the discrepancy in statistics. The Commission agreed to exchange its statistics with AQSIQ in future before they are published to avoid any discrepancy. AQSIQ queried the fact that certain Member States with a low trade volume with China seem to notify a large number of products. The Commission responded by informing AQSIQ that there is no obvious link between trade volumes and numbers of notifications; the numbers relate to measures.

As regards the issue of further indicators to demonstrate the impact of cooperation with the Chinese authorities and, in particular, RAPEX-China, it was agreed that further reflection was needed.

The Commission representative concluded by informing Member States that the 17th AQSIQ report was currently being translated and will be sent to Member States as soon as possible for feedback.

Trilateral Cooperation: The joint press statement issued on the occasion of the second high-level trilateral meeting, in October 2010, contained action points and the first action was to create an implementation plan for points of consensus. The Commission is currently working on this plan with the US and China. A proposal was received from China and the US CPSC

and Commission have sent a reply. They are now waiting to hear from China so that the plan can be finalised.

OECD: Last year, the OECD adopted a report to enhance the sharing of information on product safety. The report contained 10 recommended actions. A working party has been set up by OECD to implement the actions; they currently concentrate on 2 of these: a global recall database and a product safety inventory to share information on international and national product safety activities (e.g. standards, market surveillance activities) and to establish an online directory of experts. Member States are encouraged to participate in the working party.

ICPSC activities: A pilot traceability project has been set up by ICPSC aimed at achieving a better understanding of industry best practice in terms of tracking and traceability and to informally agree on a set of minimum information that could appear on a specific consumer product (possibly in the form of a label). The project will focus on one product category – pushchairs/strollers - and the European Commission is currently in the process of responding to a survey in order to provide information on legal requirements as well as desirable information elements relating to traceability. A copy of the draft response has been sent to Member States for comment via *Circa*. The Commission should submit its response to ICPSC by 1 June.

Finally, Member States were informed of a pilot project on standard harmonisation between the Commission, Australia, the US and Canada. The project focuses on 3 products which pose a risk to children: corded window coverings, chair-top booster seats and baby slings. The aim is to find consensus on safety requirements. The results will be presented in an informal recommendation and national authorities may then choose to develop a regulatory approach from this consensus position or a standard.

b) Joint Product Safety Surveillance Action with China

A Commission representative gave a brief overview of the EU-China joint market surveillance action. Following discussions with the Chinese authorities at the RAPEX-China Working Group meeting, it was agreed that one of the first actions undertaken would be study visits of experts to better understand each other's work. A pilot project is already being set up between the Netherlands and China and will focus on a single product category (toys). Work on the pilot project should start in the Summer/Autumn 2011 and run until end 2012. It is possible that the project could be extended to other Member States with the Commission's financial support.

The representative from the Netherlands then presented in more detail the background to the Joint Action and its objectives, stressing that it is in the interest of both China and the EU to work together on product safety and to share responsibility for consumer protection. The Joint Action will be built on existing initiatives and the work will start very soon. It is proposed that at the end of the year there will be an evaluation seminar and that a practical joint action be developed between China and EU in 2012-2014.

Miscellaneous issues

15. Joint Actions and Exchanges of Officials

An update on joint actions and exchanges of officials was presented by a representative from the Executive Agency for Health and Consumers (EAHC). The joint action 2010, which covers 5 products, has received an EC contribution of 1,423,000 euro. 23 organisations from

20 Member States plus Norway are involved in the joint action which started on 1 January 2011 and will last 28 months. The Call for 2011 was published on 10 March 2011 and the deadline for submissions is 15 June.

As regards the exchange of officials in 2010, 15 applications were received and 15 grants were signed by the end of 2010. All the exchanges have now finished. Member States were strongly encouraged to participate in the 2011 call and to make use of the budget available. Relevant documents are available on the EAHC website <http://ec.europa.eu/eahc/consumers/> and CIRCA. Member States can request further information directly by email to the Agency: EAHC-CP-CALLS@ec.europa.eu.

The Chair reminded Member States who participate in joint actions to submit the necessary financial documents to Prosafe in time so as to allow Prosafe to prepare the payment requests to be submitted to the Agency and recover all incurred costs of the joint actions. Several Member States are behind on this issue, which can affect the closure of joint actions.

Another worrying issue is the decrease in interest in this year's call. To date, only 15 Member States and Norway have expressed their interest. More participation was therefore encouraged.

16. Enforcement Indicators

Member States were presented with a copy of the latest issue of the Consumer Scoreboard. Data received from Member States is very useful to the Commission and participants were informed that half of the indicators are being used for the GPSD impact assessment. Response rates are improving and data is more complete. The Commission has identified that the best indicators are those that deal with output (ie. the results of enforcement). There is however a limited response rate for non-compulsory questions dealing with sectors.

The Commission is again keen this year to receive information on resources. Budgets and information about the number of inspectors may be complex to calculate but data on activities to ensure compliance, results of compliance checking and corrective measures would be useful.

The new questionnaire has been sent to Member States for comments and suggestions. Data will be collected between July and October this year. The Commission representative again asked Member States for their views on how best to share the data collected.

There then followed a presentation by a Prosafe representative from "Task Force F" of the EMARS II project, which had been looking at the groups of indicators used in the Consumer Market Scoreboard. Members of the Task Force agreed that there is a need to have indicators to monitor whether market surveillance projects are working properly and to show where improvement is needed. However, the existing indicators refer to statistical data and do not provide concrete data on the effects of market surveillance activities and whether they have actually helped to increase the safety of consumers. The Task Force was less in favour of "input" indicators (e.g., the budget spent on market surveillance, number of inspectors, etc.), as, although useful for internal use, the information needs to be correctly interpreted. The Task Force did not consider that these indicators were suitable for publication or for any kind ranking. The "Output" indicators (e.g., the number of inspections and the number of dangerous products found on the market) were preferred by the group as these figures are more reliable and the clear explanations given in the questionnaire helped to avoid any misunderstanding.

The Task Force concluded that the indicators do not show the effects of market surveillance actions and that, therefore, there is a need to have better indicators in the future.

17. Status of the study on the future of market surveillance

The final report from the contractor (BSI) is available on *Circa*. The report will be accompanied by 2 task reports to ease understanding – that is, a detailed document which corresponds to task 1 of the project on current issues faced, and a second sub-report presenting the implications of development of the current market surveillance framework.

The final report presents 14 recommendations for market surveillance. A Commission representative recommended that Member States look closely at sections 5, 6 and 7 of the report. Member States are asked to provide feedback on all the recommendations as soon as possible to assist with the impact assessment of the GPSD.

18. EU expert group on product traceability

Information about an EU informal expert group on product traceability was first presented to the GPSD Committee at its meeting on 9 February 2011. Since then, a call for tender has been published to find a contractor to provide research support. The responses have been evaluated by the European Commission and a decision will shortly be made. A call for expressions of interest for members of the expert group has also been published and the deadline for replies was 12 May. The responses are currently being analysed, however participation by Member State authorities is still encouraged. Member States were therefore invited to respond to the call **by 9 June** and advised that funding would be available to cover transport costs for meetings in Brussels.

AOB

19. A representative from Germany raised the issue of potted plants and flowers treated with substances that are harmful to human health. The plants concerned originate mainly from Africa and South America. The German representative had questions concerning the legislation that would apply in this case since the GPSD covers non-food products, but these products are not manufactured. He asked how other Member States deal with the issue.

The Chair asked the German representative to submit a written request to the Commission, putting Member States in copy.

The tentative date of the next GPSD meeting is 13 October (to be confirmed).

Annex 1: draft agenda

Annex 2: attendance list

Annex 3: adopted minutes of meeting of 14 October 2010