



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES

Ecosystems III: Construction & Machinery

H2. Machinery & Equipment

MACHINERY DIRECTIVE 2006/42/EC EXPERT GROUP

Machinery Expert Group meeting

Brussels, 10th November 2021, 9:30-17:30

Online meeting via WebEx

1. APPROVAL OF THE AGENDA

The Commission welcomed the participants and the agenda was approved without comments.

2. ADOPTION OF THE RULES OF PROCEDURE

The Commission presented the proposal for rules of procedures; a draft version had been circulated during the last machinery expert group (MEG) meeting.

ETUI, EUROCORD, EGMF and the NETHERLANDS made further comments and questions on the rules for the invitations to the expert group.

The adoption was postponed to the next meeting given the absence of some delegations.

3. GENERAL INFORMATION BY THE COMMISSION ON ONGOING ACTIVITIES IN THE MACHINERY SECTOR

a. Revision of the Machinery directive

On the state of play of the discussions with the Council of the EU and the European Parliament

The Commission presented the state of play of the discussions with the Council of the EU and the European Parliament, following the adoption of a proposal for a regulation on machinery products on 21.04.2021 (COM(2021) 202 final). The rapporteur issued a draft report on 20.10.2021 that was discussed in the IMCO Committee in the presence of the Commission on 28.10.2021. The deadline for tabling report amendments was 9.11.2021 and a vote in the IMCO committee will take place in March 2022. In the Council, the discussions are now devoted to article-by-article reading, with many written contributions from the Member States delegations. The redrafting process has started in a constructive atmosphere. Both in the European Parliament and in the Council, the main points of debates are the exclusion from the scope of vehicles that are only meant for transportation of goods or persons, the definition of ‘substantial modification’, the empowerment of the Commission to adopt technical specifications, the list of high risk products, and the mandatory third party conformity assessment for high risk products.

ORGALIM, ETUI, ANEC, EUROCORD, and CEN-CENELEC provided their comments.

On the interplay with the proposed regulation on artificial intelligence

The Commission continued by presenting the interplay between the proposed regulation on artificial intelligence and the proposed regulation on machinery products.

CEMA, ETUI, ORGALIM, ANEC, and CETTAR provided their comments.

On the Brunswick case

The Commission presented a judgment by the General Court on 8.09.2021 (Case T-152/19, *Brunswick Bowling Products LLC v European Commission*). In its judgment, the General Court dismissed an action by the manufacturer challenging the Commission’s decision.

b. Information by the Commission about the new initiative on road circulation for non-road mobile machinery (NRMM)

The Commission presented the new initiative on road circulation for non-road mobile machinery. It will allow for a harmonisation of safety requirements for the road circulation of self-propelled mobile machinery. NRMM is designed to perform specific works (garden, construction, agriculture, material handling, municipal): while some legal aspects are already harmonised (emissions, safety, electromagnetic compatibility), the approval for road circulation is not. The Commission is finalising an impact assessment for this initiative. A number of problems have been identified: delays in the market introduction, barriers to market entry for SMEs, difficulties for using machinery across intra-EU borders, high compliance costs for companies, and unequal road safety in the EU.

The Commission presented the different options that are contemplated:

1. EU approval of the entire mobile machine granted by MS authorities
 - a. Type approval: third party conformity assessment for all components, systems and separate technical units.
 - b. Simplified type approval: depending on the items' criticality for road safety, either third party conformity assessment or self-certification. The Commission has noted that this would be the approach favoured by most stakeholders.
2. CE marking of the entire mobile machine granted by the manufacturer.

The Commission pointed out that the option of mutual recognition of existing national legislation had been discarded, given the significant differences between current national regulations.

The Commission indicated that it was currently analysing other aspects of this initiative:

- Regulation vs. directive
- Mandatory vs. optional harmonised system
- Inclusion of towed equipment
- Limiting the scope to a maximum design speed up to 40km/h

The Commission recalled that a public and targeted consultation had taken place from November 2020 to January 2021, and declared that this initiative was open to comments and suggestions of Member States by 30.11.2021. The impact assessment was submitted on 10.11.2021 and the Regulatory Scrutiny Board will convene on 8.12.2021. The new legislation could be adopted in the first half of 2022.

c. Updates on the follow-up of the Outdoor Noise directive evaluation

The Commission indicated that it had contemplated two options following the evaluation of the outdoor noise directive (2000/14/EC), that have been presented in a meeting of the expert group on outdoor noise emission on 17.03.2021: (i) a revision of the directive, or (ii) first a delegated act for the update of Annex III, and in a second time a revision of the directive. The conclusion of the discussion in the expert group had been to pursue the latter. As a result, the Commission will set up a meeting at the beginning of 2022 to launch the process of drafting the delegated act. The delegated act will address the most critical issues related to the Annex III that have been identified during the evaluation of the directive.

POLAND expressed concerns related to the transition period needed for the correct transposition of the directive in national law.

The Commission indicated that the delegated act would directly amend the Annex III and proposed a bilateral discussion to clarify the concerns.

d. Information about the joint Machinery Expert Group (MEG) – Working Group Pressure (WGP) meeting on 24 March 2021 on the pressure equipment directive

The Commission presented an update on the joint work regarding the interplay of the machinery directive (MD) and the pressure equipment directive (PED, 2014/68/EU), and in particular the PED Guideline C-13. After the MEG-WGP joint meeting on 24.03.2021, a follow-up meeting took place on 20.04.2021 with some stakeholders that had been invited to provide accident data and technical information on the type of machinery affected. The Commission received opinions from some national authorities, information from market surveillance authorities and notified bodies, and position papers from industry associations. However, the Commission received neither data on accidents nor detailed information on the technical characteristics of the concerned equipment.

Based on the input received, the Commission presented the 3 options that are currently contemplated:

Option 1. Removing notes 1 and 2 from PED guideline C-13;

Option 2. Removing notes 1 and 2 from PED guideline C-13, and develop a new PED guideline;

Option 3. Amending the proposed regulation on machinery products to aim at a single conformity assessment under the machinery legislation, with a mandatory third party involvement in the conformity assessment for high risk machinery products integrating items of pressure equipment higher than category I under the PED.

The Commission presented the next steps of the process. The opinions of all stakeholders (MEG and WGP) on the options or alternative proposals, will be collected **until 15.12.2021** with view to conclude on the preferred option forward in a joint MEG/WGP meeting beginning of 2022. Information will be shared via CIRCABC to both MEG and WGP expert groups.

CEMA, ORGALIM, TIC COUNCIL have provided their comments.

4. INFORMATION ON STANDARDISATION ACTIVITIES

a. CEN-CENELEC Report

On the proposal for a machinery products regulation

CEN-CENELEC presented an official position paper on the proposed new regulation that it had issued in July 2021.

On the overall situation in the sector

CEN-CENELEC underlined the frequent exchanges with the Commission, with an agreed review of the guidance regarding the drafting of Annex Z for standards series for machine families, and ongoing discussions to clarify normative references. It highlighted efforts to improve experts training in the machinery sector, with a joint webinar on harmonised standards on 18.10.2021, the introduction of the mandatory use of a checklist for technical committees dealing with harmonised standards, and a new webpage with guidance for technical committees on harmonised standards. CEN-CENELEC pointed out at several challenges, including the high

number of negative assessments of harmonised standards and the disruption of exchanges and meetings between technical committees and harmonised standards consultants since April 2021. It underscored that the consistency of interventions by harmonised standards consultants could sometimes prove problematic.

CEN-CENELEC presented figures on the harmonised standards assessments results. It indicated that the most common reason for negative assessments at the stage of the formal vote was that the Annex Z does not properly refer to the relevant legal requirements of EU legislation.

CEN-CELENEC highlighted current activities in technical committees ISO/TC 199 and CEN/TC 114: the transposition of ISO/ TR 22100-5 on the implications of embedded artificial intelligence machine learning, prEN ISO 13849-1 on safety-related parts of control systems, and ISO/CD 11161 on integration of machinery into a system. CEN-CENELEC also presented figures on references of standards published, work items under development and citations in the Official Journal of the EU.

b. Formal objections

The Commission presented an update on formal objections on electrically power assisted cycles (EN 15194:2017) and earth-moving machinery (EN 474-1).

5. INFORMATION BY THE COMMISSION ON MARKET SURVEILLANCE / MACHINERY ADMINISTRATIVE COOPERATION ACTIVITIES

The Chairman of the Administrative Cooperation (AdCo) in market surveillance for the machinery directive presented an update on the activities of the past months. A meeting took place virtually on 2.11.2021, during which the following topics were addressed: offshore cranes; electrification of mobile machinery; cordless drills; ice augers and adapters; safeguard clauses on wind turbines, and tilt rotators. A cross-border action on log splitters is being carried out in 2021/2022 in the context of the task force on agricultural machinery. Moreover, in response to the call for proposals by the Commission, the AdCo has prepared two joint actions for 2021/2022, in partnership with PROSAFE: (i) visual inspection of mobile scissor lifts; and (ii) testing of handheld circular saws for wood products. The next AdCo meeting is planned on 15.02.2022.

6. INFORMATION FROM THE COORDINATION OF NOTIFIED BODIES

The Technical Secretariat presented an update on the Horizontal Committee of Notified Bodies (HCNB), in the absence of the Chairman of the HCNB who was not attending the MEG. It indicated that no meeting had been taking place since February 2020, with several postponements and cancellations. A last attempt will be made on 15.12.2021 and 16.12.2021 before the end of the contract of the Technical Secretariat. Moreover, the Technical Secretariat stressed that up-to-date recommendation for use (RfU) was missing due to pending approvals. It suggested to explore a new approach: the Technical Secretariat would send pending recommendations for use directly to the Commission for submitting them to the MEG even though they are not approved by the Chairman.

FRANCE expressed concerns regarding the absence of regular meetings of the Horizontal Committee, as coordination is critical for the good functioning of the European system. It supported ongoing efforts to find solutions.

The Technical Secretariat thanked the Commission and FRANCE for their support, and indicated that in case of the absence of the convenorship of the Horizontal Committee, it might try to chair the meeting on 15.12.2021 and 16.12.2021.

The Commission indicated that it would wait for the recommendations for use once they are adopted, so that they can be submitted to the MEG and then a written procedure will be launched for their ratification.

7. FOLLOW UP ON QUESTIONS FROM THE NEXT MEETING

7.1. Information about incidents with refuse collection vehicles (EN 1501-1+A1:2015)

The Commission recalled that it had asked for updates on accidents and indicated that it had received no additional information on that matter.

FRANCE expressed reservations regarding the standard, in particular concerning the visibility of hazardous areas among others. As a result, FRANCE would like to see a restriction placed on the reference of the standard. It indicated that no decision had been made at this stage regarding a potential formal objection, but this option could be contemplated in the future.

CEN-CENELEC emphasised that this point had been on the agenda for some time. A new version of the first part of the draft standard was published in March 2021 and detailed responses to FRANCE's arguments were presented and circulated in the MEG before the meeting. CEN-CENELEC expressed concerns of delaying the citation of this standard that has received consensus approval after years of discussion, a compliant assessment and was sent to the Commission for publication in May 2021.

The Commission underscored that, as a principle, standards positively assessed by the harmonised standards consultants qualify for publication. Moreover, there had been no reaction of other Member States on this issue since last MEG meeting.

The Commission intends to publish the standard; France is invited to issue a formal objection or to send a note to the members of the MEG, on the basis of which the Commission will determine whether it is appropriate to place a warning on the reference of the standard in the Official Journal of the EU. If France does neither of the two actions, the point will be closed.

EUNITED expressed support for the publication of the standard and underlined that answers had been provided to address the concerns raised by FRANCE. It pointed out that the new standard improves safety in a significant way.

7.2 Visibility (5.1.7.1) and amendment to EN ISO 4254-1

CEN-CENELEC indicated that the amendment to EN ISO 4254-1 will be published on 01.12.2021. The technical committee CEN/TC 144 on tractors and machinery for agriculture and forestry cooperated with consultants and FRANCE on that matter, which led to a joint agreement.

FRANCE expressed satisfaction with the evolution of the situation and underlined that the amendment had already been published at the ISO level. It emphasised the significance of keeping specifications regarding visibility for agricultural machinery. The French standardisation

commission has started to draft a proposal for detailed specifications that will be presented at the European level.

ETUI pointed out that EN ISO 4254-1 contains only general requirements and asked CEN-CENELEC whether these would be specified for individual items in the following parts of that standard.

CEN-CENELEC emphasised that the first part of the standard contains common requirements. Regarding visibility, the other parts of the standard do not add specifications; there will be some work on more detailed specifications as mentioned by FRANCE.

FRANCE reaffirmed that it supports the development of a standard on visibility matters for all agricultural machinery, starting with self-propelled agricultural machinery. This project has been shared with CEN/TC 144.

CEMA suggested to close the point.

The Commission declared that the point would be closed.

7.3 Accidents with sideboards of tipper trucks

FRANCE presented an update on the action pursued at the national level. Following the publication of the technical note in July 2020, there was a joint work of tipper and truck manufacturers to find harmonised technical solutions. The implementation on new machinery is still in progress, due to electronic parts supply issues. A market surveillance action is planned with the labour inspection services and users.

ETUI emphasised that European standards are critical to prevent divergence between Member States.

The Commission asked FRANCE whether it had contemplated initiating work on a European standard on that matter.

FRANCE indicated that this was being currently considered; however, it mentioned a lack of resources to support this work.

The Commission proposed to remove this point from the agenda and to redirect the discussion in the Administrative Cooperation group, which FRANCE accepted.

7.4 Absence of kickback protection and brake systems in standard EN 194321

CEN-CENELEC underlined that this standard had received compliance assessment, and was published in the Official Journal of the EU in March 2021.

The Commission indicated that the point would be removed from the agenda.

7.5 Trail loaders and trailer ramps

NORWAY presented the issue of some mechanised trailer ramps that would not be considered as vehicle-mounted machinery by some manufacturers. For such ramps, it was questioned whether the machinery directive applies. The regulation on type-approval of motor vehicles and trailers (2018/858) does not cover safety issues when activating the ramp for use.

DENMARK, NORWAY, and ETUI provided their opinions.

The Commission reaffirmed that the machinery directive applies and proposed to close the point on the agenda, which was accepted by NORWAY.

8. NEXT MEETING

The Commission indicated that the next MEG meeting would take place in fall 2022, probably on 10.11.2022. If sanitary conditions allow for a physical meeting, it would convene in the Commission premises in Brussels.