

Summary minutes of the MED EG Meeting

24 – 25 February 2016

Present: Belgium, Germany, Estonia, Spain, France, Ireland, Italy, Latvia, Luxembourg, Lithuania, Norway, Malta, Netherlands, Greece, Sweden, United Kingdom, Poland, ILAMA, SEA Europe, IWMA.

AI 1 Welcome to the participants

Meeting started at 10.00

AI 2 Approval of the Agenda

Some new issues added to AOB.

The Report of the MED meeting held in June 2015 was approved.

AI 3 Information on the transposition of Directive 2014/90/EU

The Commission (COM) informed about the timing for the 11th amendment and Directive 2014/90/EU. COM highlighted that NBs will need to be re-accredited under Directive 2014/90/EU but this will be possible only after that the Directive has been transposed.

Some Member States (MS) informed on the status of their national transposition.

AI4 New format of Annex A

Commission informed about a preliminary informal consultation with the Legal Service on the format of the new Annex.

On this basis EMSA informed the group about the on-going work, presenting some examples adhering to the agreed format for discussion.

A template for not amended items was introduced first as a simple example to discuss, and it was agreed to leave the columns for the 'first placing on the market' and 'last placing on board' empty in this case.

The discussion then turned to whether the 'first placing on the market' should be the date of the adoption of the new standard or the date of entry into force of the Implementing Regulation. As EU legislation is guided by the general principle of legal certainty, laws should not take effect before they are published, and therefore it was agreed to use the date of entry into force of the Implementing Regulation unless there was an appropriate date after its publication which could be derived from a new standard.

However, only if a new test standard has to be applied after the date of the entry into force of the Implementing Regulation, the additional row and the dates for "first placing on the

market” and “last placing on board” of the outgoing testing standard need to be added. If the new testing standard already has to be applied before the entry into force of the Implementing Regulation, no second row is required for the item.

For the ‘last placing on board’ a transition period of 5 years in line with the validity of the module B certificates was first proposed. When it became clear that there is no link between the validity of the module B certificate of an individual product and the date for the last placing on board of a complete product group, the precise date of the application of a new test standard (if this has been set in the standard itself) or a default 2 years from the entry into force of the Implementing Regulation (if nothing has been determined by the standard) were deemed more appropriate. If deemed necessary, the transition period can also be extended.

The Commission underlined that there will be ample opportunity for stakeholders to comment on the proposed timing in every individual case.

On the definition of ‘*placing on board*’ the three definitions that were discussed during the Workshop in Lisbon in October 2015 have been reviewed and reconfirmed. It was agreed that in exceptional cases ‘placing on board’ can also be defined individually for an item, e.g. by applying SOLAS provisions.

Timeline: On the basis of the agreed general principles, EMSA will produce the first draft of the full Annex for COM by the end of April. COM will then start the consultation of stakeholders and Member States (in that order) during the month of May 2016. EMSA will host a “confirmation” workshop on 23 & 24 June to finalize the Annex.

AI 5 Notified Bodies (NBs)

The Secretariat of the MarED Group presented recent activities, including open questions, ADRs and statistics on products in the MarED database. 15.000 Module B Certificates and 13.000 Module D certificates are actually recorded in the database for 104.000 entries in total.

The MS raised questions about the possibility for the MS to access and contribute to discussions on the message board of the sub-groups of the MarED group. There is general understanding that it would be useful for the MS to be involved in the discussions before an ADR is submitted to the MarED Horizontal Committee in order to ease the future process.

A question from stakeholders referred to the adaptation of the existing recommendations to the new Directive. The Secretariat reported that at a recent meeting in Rome all general ADRs had been reviewed in order to see whether they needed to be modified. It is planned that a formal consultation of the MS will take place only when there are changes in substance, not when only a reference has been updated.

It was also pointed out that some MS and NBs are not attending the MarED meeting regularly. MS not keeping themselves informed on a regular basis sometimes comment at a very late stage (at COSS), slowing the process for the adoption for ADRs. MarED is therefore encouraging their early participation.

A record of the NBs presence at MarED meetings is already in place and it will be used in the future to assess their overall commitment. Under the new MED the Commission can ask MS to de-notify NBs which do not keep themselves regularly informed of the decisions taken by MarED.

To ease the use of the MarED website by the MS observers a tutorial will be circulated via CIRCA.

ADRs: *COM* informed on the ADRs prepared by the MarED Group. Nine have been submitted to COSS38 for endorsement. Some MS anticipated comments on some ADRs. A timely consultation of the Member States by EMSA could be useful in order to avoid that ADRs are being blocked at COSS.

There was general agreement that representatives of MarED should regularly be invited to future MED expert group meetings in order to inform the Member States about ongoing activities.

AI 6 Market Surveillance.

The Co-Chair of the ADCO MED Group (Administrative Cooperation Group for Marine Equipment Market Surveillance) reported on the second ADCO meeting that was held in October 2015 in Brussels.

Discussion took place in particular regarding the criteria under which the market surveillance activities are carried out. In particular on issues such as harmonised procedures for checks/sampling and the chain of responsibilities when launching safeguard actions. It was agreed to ask the ADCO Group to develop further guidance on these subjects.

COM provided a review of the open market surveillance cases:

- Fast rescue boat launching appliances (MED A.1/1.25)
- Lifejackets (MED A.1/1.4)
- Sprinkler System Components (MED Art.1/3.9)
- Hydrostatic release units (MED Art.1/1.6)
- EPIRBs (MED Art.1/5.6)
- Navigation Lights (MED Art.1/6.1)

AI 7 Information about a study on the electronic tagging of marine equipment

BALance as leader of the consortium introduced the First Interim Report (which has been made available on CIRCA).

Questions arose on the introduction of the e-Tag in accordance with Article 11.

Preferably there will only be one delegated act containing all the items which will be subject to electronic tagging.

Regarding the timing, COM explained that Article 11 foresaw that the e-Tag may supplement the wheelmark three years after the appropriate technical criteria have been adopted, that wheelmark and e-TAG could co-exist in year four and that in the fifth year after the criteria have been adopted the tag may replace the wheelmark.

Most participants found it useful that the electronic tag should supplement the wheelmark, but were sceptical regarding a full replacement. COM asked them to contribute their opinions actively to the ongoing study, in order to ensure that existing sensitivities can be taken into account in the legislative process.

Considerations on what information can be stored in the different product databases were also exchanged.

The MED experts were invited to participate in a workshop organised by the consortium on 31 May 2016 in Brussels.

Several Member States indicated interest in participating in the demonstration projects which are also planned in the framework of the study.

A suggestion was made by a stakeholder organisation to hold a workshop at the SMM in Hamburg in September 2016.

AI 8 AOB

Question on Validity of Certificates

The following interpretation was agreed:

Existing certificates issued under the Marine Equipment Directive 96/98/EC will remain valid until either:

- They reach their expiry date as applicable;*
- The conditions of the certificate's validity are breached;*

Or

- Marine equipment meeting the specified standards within the existing certification is no longer accepted for being placed on board an EU ship in accordance with the Commission Regulations pertinent to Article 35(2) and (5) of Directive 2014/90/EU.*

This interpretation will be included in the Q&A document on CIRCABC.

Regarding the references to the old and new Directive on the manufacturer's declarations of conformity, COM referred to an earlier discussion of the Expert Group on the Internal Market for Products (See 5.2 of <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=19669&no=1>).

Standardization Mandate

COM introduced a draft mandate asking for the development of standards for firehoses with a diameter > 52 mm (entry A.2/3.33 in Annex A.2 of Directive 96/98/EC as amended by Commission Directive (EU) 2015/559) and public address and general emergency alarm systems (entry A.2/1.5). Comments were requested by 25 March 2016.

Authorized Representative

Does a manufacturer need an authorized representative in Europe even if they do not market a product in Europe? Legally this is required by Art. 13.1 of the new MED.

In AR GEN-001 and 019 it is established that modules must carry the indication of the name and address of the manufacturer or of an authorized representative established in Europe.

Overview of the Amendments

Stakeholders indicated that as a result of the amendment process (such as in the present case in which the new Annex will be replaced by the Implementing Regulation) it would be welcomed to have a document which gives an overview of the changes between the amendments.

COM will look into possibilities for doing so.

AI 9 Next Meeting

Early 2017.