



Brussels, 10 June 2016
MS

Meeting report

Subject: Meeting of ADCO MED (subgroup of the Marine Equipment Expert Group), Brussels, 1/6/2016

Participants: Marine equipment market surveillance authorities of BE, DE, DK, EL, ES, FR, HR, IT, FI, NL, NO, RO, PL, PT, SE and UK as well as EMSA and the Commission.

Topics discussed:

RAPEX

A representative of DG JUST presented the RAPEX system. RAPEX is the EU rapid alert system for the exchange of information between MS and EFTA/EEA countries (28+3) and the European Commission about measures and actions taken in relation to dangerous products. The public RAPEX website gets more than 1 million visits per year.

See also:

http://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/index_en.htm

The presentation stimulated a number of questions from the market surveillance authorities, to which the following replies were given:

- RAPEX covers compulsory and voluntary measures. Voluntary measures should also be notified to RAPEX if there is a serious risk.
- The RAPEX business application¹ allows companies to communicate corrective measures to authorities.
- The task of RAPEX is only to alert about dangerous products. If a manufacturer does not agree to a voluntary measure, market surveillance authorities need to take action on the basis of the applicable legislation.
- JUST will look into the possibility to create a separate product category for MED items.
- Guidance on how to perform risk assessment is given in the RAPEX guidelines².

¹ <https://webgate.ec.europa.eu/gpsd-ba/index.do>

² See: http://ec.europa.eu/consumers/safety/rapex/docs/rapex_guid_26012010_en.pdf. In particular p.42: *"Products may still present a risk even though they do not cause injuries Products may not be hazardous but can nevertheless cause a risk, due to not being fit for their intended use. Examples of this can be observed in the area of personal protective equipment or life saving equipment, such as reflective jackets that car drivers put on after an accident. These jackets are meant to get the attention of oncoming drivers and traffic participants to warn them of the accident, in particular at night. However, they might not be seen if the reflector stripes are too small or do not reflect sufficiently, and do not therefore protect users as they should."*

Since it was also unclear how the notion of risk assessment would translate into the requirements of Article 26.1 and 2 of the new MED, the group decided to set up a correspondence group lead by Italy on risk assessment and evaluation in order to develop appropriate sector specific technical recommendations. France, Germany, the Netherlands, EMSA and the Commission joined the group. EMSA suggested that the group should also work on guidance for sampling.

Current market surveillance issues

The Member States and the Commission presented the following ongoing cases:

- **FR & IT:** Fast rescue boat launching appliances (MED A.1/1.25): the Member States concerned will start an Article 13 procedure for new equipment. Equipment already on board will be issued national approvals once an alternative appropriate test has been performed.
- **IT & DE:** Lifejackets (MED A.1/1.4): Italy and Germany will perform joint testing at a laboratory in the UK.
- **Com:** Sprinkler system components (MED Art.1/3.9): the Commission reiterated its recommendation to closely monitor the results of the tests of MSC.1/Circ.1432 during scheduled inspections activities.
- **FR:** EPIRB (MED Art.1/5.6): voluntary global recall programme by the manufacturer.
- **FR:** Navigation light interferences (MED Art.1/6.1): a possible way forward is to create a new standard « Electrical installations of ships and of mobile and fixed offshore units » through the TC 18 of IEC. The French mirror committee of TC 18 is currently discussing this.
- **SE:** Hydrostatic release units (MED Art.1/1.6): Voluntary recall by the manufacturer. Sweden reported about its experiences with its first RAPEX notification and made a number of useful practical suggestions.

The group then discussed a recent request to MarED to reopen the discussion on MarED approved recommendation LSA-13. The question was if an inflatable lifejacket can receive MED approval if the two compartments do not inflate automatically upon immersion into water. One Member State argued that the formulation used in the LSA code (2.2.2) did not provide it with a sufficient legal base to take actions against inflatable lifejackets of which only one compartment inflates automatically, and that there are indications that not all notified bodies apply the approved recommendation. Others reasoned that the existing rule and the approved recommendation were not ambiguous and should be enforced.

The Commission referred to the new Marine Equipment Directive, Annex III, paragraph 17, which determines that conformity assessment bodies shall apply, as general guidance, the administrative decisions and documents produced as a result of the respective notified body coordination group (i.e. ARs produced by MarED as approved by COSS).

One Member State also argued that this discussion did not fit into the scope of the terms of reference of ADCO MED. Therefore, the group in principle decided not to take the issue further and to refer it to the Marine Equipment Expert Group.

Implementation of the new MED

The Commission made the Member State market surveillance authorities are aware of the replies given to a number of questions from MarED (see ADCO MED DOCs 5.a.1, 5.a.2 and 5.b.1).

A Member State raised the question whether the authorised representative required by the MED for non-EU producers needs to be established in the EU. The Commission referred to the *'Blue Guide' on the implementation of EU product rules 2016*, Commission Notice C(2016) 1958 final, which establishes as a general principle that "whether the manufacturer is established in the EU or not, he may appoint an authorised representative in the Union to act on his behalf in carrying out certain tasks required in the applicable Union harmonisation legislation". Furthermore, the definition of an authorised representative contained in Article 2 of the new MED makes explicit reference to the authorised representative being a natural or legal person established within the Union.

Possibilities for joint actions/specialisations

Germany offered to obtain more information regarding joint actions. At the next meeting, the market surveillance authorities will be asked to provide ideas and to shortly present their respective market surveillance programmes. The Commission recommended that at least one market surveillance authority participating in the group should become a member of PROSAFE in order to possibly enable ADCO MED's participation in EU funded joint action programmes. More information is available on the document ADCO MED DOC 8.1.

Workshop / Study on the possible introduction of the e-Tag

The Commission briefly informed of the results of the Workshop held on 31st May. Nearly 40 stakeholders (MS and industry) were present. At the end of the day a more uniform understanding amongst the participants was achieved. 50 stakeholders have so far replied to an on-line questionnaire. Demonstration activities, open to all stakeholders, were announced and will take place in September (at the SMM fair in Hamburg and in the Baltic Sea) and in October (in the Mediterranean).

Any other business

The chairpersons invited the members of the group to comment on the document "Horizontal good practices of market surveillance" until the end of July. The Commission offered to start a discussion group on CIRCABC for this purpose.

Next meeting

The group thanked Italy for organising the next ADCO MED on 5 and 6 October 2016 in Florence. The first day of this meeting will be devoted to a visit of a fire safety testing laboratory (L.A.P.I.).