

ATEX Stakeholders

DEPARTMENT FOR BUSINESS
ENTERPRISE & REGULATORY REFORM

BPR 280
151 Buckingham Palace Road
London
SW1W 9SS

July 2007

Tel +44 (0)207-215-1427
Fax +44 (0)20 7215 1529
Enquiries +44 (0)20 7215 5000
Minicom +44 (0)20 7215 6740

www.berr.gov.uk
Ricky.Holyomes@berr.gsi.gov.uk

Dear ATEX Stakeholder

ATEX STAKEHOLDER REPORT – JULY 2007

This stakeholder report covers the ATEX business that has taken place in the first half of 2007 that culminated with the Administrative Coordination (ADCO) and Working Group meetings held on 21st June and 19th July, respectively.

Before I proceed, you will no doubt be aware of some changes in the machinery of government and consequently in the layout of 'Whitehall' departments lately.. Whilst there has been some re-shuffling of responsibilities at a departmental level, as far as the ATEX community is concerned, there have been no major changes either in terms of which government department (other than a change of name) or of the staff you will continue to deal with.

However, there has been one change that you need to be aware of. That is, with a change in department name, there has been a change to all of "DTI's" email addresses (although the DTI addresses will continue to work for a short period). The new format is laid out below:

New address: firstname.secondname@berr.gsi.gov.uk
e.g. ricky.holyomes@berr.gsi.gov.uk

You may wish to update any mailing lists and contact details you may have to ensure that we continue to receive your emails.

My report of the July 2007 ATEX Working Group is attached as Annex I.

The main content of this meeting was split between business relating to standards and business relating to guidance.

It would appear that a large number of standards are awaiting publication in the Official Journal of the European Union. We recognise that standards, whilst not being mandatory, have an important role to play within this particular regulatory system and I would advise that you keep abreast of developments affecting any standards that you currently use.

Continuation 2

Additionally, the UK has placed two specific issues on the Working Group agenda as a result of discussions with concerned stakeholders. I am pleased to report that both items were supported by other Member States and are now due to be discussed at further Working Group meetings. I regard such activities as a very important part of both BERR's and my role and would encourage you to contact me if you have an issue that you would like to be considered by the Working Group.

You may wish to note that guidance on 'flameproof enclosures' and 'water trough barriers' has been approved by the Working Group and these will be published on the ATEX website very shortly. The Commission has indicated that it intends to incorporate this guidance into the Second Edition of the ATEX Guidelines. Hopefully, this will coincide with the publication of UK's proposed re-draft on Section 10.3 ie how 'changes in the state of the art' should be treated by Notified Bodies and manufacturers; an area where I am working closely with concerned stakeholders.

As you are aware, it is not normal to report on the full proceedings of the ADCO meetings as they cover commercially sensitive matters to allow National Authorities to coordinate and exchange information. However, I think it fair to report to you that the very first safe-guard clause has been sent for Commission opinion by Sweden following market surveillance action. The UK has also undertaken 4 market surveillance actions following approaches from stakeholders and we are currently in the process of dealing with another two issues. I think that this situation underlines my previous comments about the heavy importance now being placed on market surveillance.

You may wish to note that the next meeting of the ADCO and Working Group are provisionally due to take place on 21st & 22nd November 2007, in Brussels. As usual, I shall endeavour to consult stakeholders who have a specific interest in the papers for that meeting and will produce my next stakeholder report, around the first week of December 2007.

Regards



Rick Holyomes
Senior Policy Adviser
ATEX, Simple Pressure Vessel and Pressure Equipment Directives
Sustainable Development and Regulation Directorate
Department for Business, Enterprise and Regulatory Reform (BERR)

ATEX Working Group – July 2007

1. Approval of the draft agenda (*ATEX_WG/07/1/01 rev. 1*)

The Agenda was adopted.

2. Approval of the draft minutes of the last meeting on 30 November 2006 (*ATEX_WG/07/1/02*)

The minutes were approved with no changes.

3. Directive 94/9/EC: Interpretation questions:

- **Gas detectors with measuring devices - including content of ExNB/02/112/CS (*ATEX/06/1/05 Report from Chair ExNBG*)**

It was noted by COMM that GER had circulated a revised paper on this subject shortly before this meeting. Consequently, COMM proposed that this paper be circulated for a 4 week period and discussed at the next meeting.

- **Flameproof enclosures - based on ExNB/00/035/CS (*ATEX_WG/06/2/03 & ATEX_07/1/03*)**

COMM introduced this item which was followed by a short discussion with a number of small drafting changes proposed and accepted. COM stated that these changes would be incorporated into the ATEX Guidelines.

- **Interface to the ATEX workplace “user” Directive: draft Consideration Paper and comments (*ATEX_WG/06/2/04 rev. 1 & ATEX_WG/07/1/04*)**

COMM introduced this item and UK provided further explanation to its written response. Following a discussion, and with there being no apparent support for this paper, the UK proposed that the draft consideration paper be withdrawn. This was agreed by the group.

- **Provision of test results with EC-Type Examination Certificates (*ATEX_WG/07/1/05*)**

UK introduced this paper. During discussion it became clear that several member states had misunderstood the issue and as a result there were several divergent views on this matter. COMM initially stated that this matter was not a legal issue but a private contractual matter between a Notified Body and its customer. The UK pointed to the divergent views as proof that the Directive is not clear on this point. COMM reconsidered the issue and stated that the general feeling appeared to be that this matter was a horizontal issue and that it would confer with other New Approach Directive colleagues for information on current practices. It was agreed that this issue would be discussed at the next meeting. UK welcomed COMM's proposal, thanked the other Member States for their views and took the opportunity to stress the potential anti-competitive nature of differing practices in Europe.

4. Progress on standardization:

- **ATEX Harmonized Standards Lists on EUROPA**

It was noted that: the latest publication of standards occurred in December 2006; a new consolidated list had been received from CEN; COM were awaiting the

Continuation 4

CENELEC list that was due later this month; and that it was intended to publish this list on the OJ in 22 languages later in the summer..

- **Standardisation work in CEN TC 305 (ATEX_WG/07/1/08 & Oral Report by CEN TC 35 Chairman)**

The Chair of CEN TC35 presented the report on activities of CEN TC 305. Additionally, the Chair reported that a combined IEC/ISO group, SC31M had been set up to look at non-electrical equipment and protective systems. The first meeting would be in Kuala Lumpur in August this year.

- **Standardisation work in CENELEC TC 31 (Oral Report by CENELEC TC 31 Chairman)**

The Chair of CEN TC31 reported that EU standards were moving into international areas and that there was more of a call for dual purpose IECex/ATEX rather than ATEX-only standards. The Chair also noted that there were difficulties with EN 60079-0 which had now been withdrawn.

- **Report by the ATEX CEN/CENELEC Consultant (Oral Report by Mr Dill)**

Mr Dill reported that a long list of new electrical standards was due for publication in the OJ. Mr Dill also reported that work was being carried out on a standard for vacuum cleaners for use in zone 22; there was no new draft of standard EN1755; and a draft for submersible pumps for gasoline tanks using electrical and non-electrical standards as well as alternative concepts would be circulated for comment.

- **Revision of Harmonised Standards – Proposed re-draft ATEX Guidelines 10.3 (ATEX_WG/06/2/13 & ATEX_WG/07/1/06)**

UK introduced its paper on this issue. GER had also submitted a paper one week before the meeting setting out its current practice. COMM proposed that it prepare a combination of both the UK and GER papers for a 4 week circulation on Circa, and that this would be discussed at the next meeting.

- **Update on Remarks on EN 1755:2000 (Safety of industrial trucks) (ATEX_WG/06/2/09 & ATEX_WG/06/2/10 & Report by UK)**

UK confirmed that it had been informed that the relevant CEN TC was rewriting the standard and that UK has consequently halted any formal procedure of objecting to the standard.

- **Update on possible mandate on Pumps of natural gas filling stations - update of prEN 13638 (Oral report by CEN)**

CEN reported that this issue was of PED and ATEX relevance and work was ongoing.

- **Update on a proposal on “International legal requirements for explosion protection” submitted to UNECE (Oral report by DE & COM)**

GER presented this item and advised that the next meeting of the ‘Working Party on Regulatory Cooperation and Standardization Policies’ would be 5-7 November 07. GER hoped that regulators would become involved with this group and that COMM would send a representative to talk about ATEX. COMM requested that the invitation letter be placed on Circa for easy access.

5. Report on the First ATEX Safeguard Clause (*Oral report by SWE & COMM*)

COMM introduced this item and explained that SWE had initiated the first ATEX safeguard action and would be issuing an opinion in due course.. SWE indicated that they looked forward to receiving COMM's opinion.

6. Report by Chair ATEX ADCO

The Chair of ADCO provided an oral report of the business from the ADCO meeting in Katowice in June.

7. Co-operation between Notified Bodies

- **Draft Consideration Paper on "ExNBG Clarification Sheets: Status and use"(ATEX_WG/07/1/07)**

COMM introduced this item and explained that it was raised following an ADCO question about the role of Notified Bodies when preparing ExNBG Clarification Sheets. UK raised three points. They were: ExNBG group is part of a regulatory framework, exists as part of the Global Approach and therefore was not independent; it appeared that there were contradictory statements regarding the mandatory and legal nature of the sheets; and, on the final point, it appeared to UK that by endorsing the sheets, Standing Committee was not able to abrogate the responsibility for the contents of each sheet. COMM agreed to look at rewording the points raised and UK agreed to send COMM written comments of its views. The revised document will be circulated for 4 weeks and then published.

8. Any other business

- **Application of ATEX Guideline 3.3 (*Oral report by COMM*)**

COMM presented this issue concerning Guideline 3.3 and the definition of a manufacturer when sub-contracting outside the EU. This case had arisen following direct contact with COMM by an ITA manufacturer. COMM explained that papers would be made available for comment via Circa shortly and called on ITA and Orgalime in particular to present their view of the matter. There was some discussion on this issue which included how a manufacturer is defined and the differences in practice of accreditation bodies leading to differing QA module assessments – an issue being considered by the New Approach Review.

- **Activities of HSE with regard to pressurised rooms/modules for use in off-shore facilities (*Oral report by UK*)**

UK gave an oral report on this issue and stated that UK would submit a written paper on this matter for consideration at the next meeting.

9. Dates of Next Meetings

It was noted that the next Working Group meeting is due to be held on 22 November 07 (with the ADCO on 21 November). This will be confirmed via Circa.