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Dear Stakeholders,

**MACHINERY DIRECTIVE 98/37/EC**  
**UK REPORT TO BRITISH INDUSTRY OF THE MACHINERY DIRECTIVE**  
**WORKING GROUP HELD ON 7 NOVEMBER AND AN INFORMAL**  
**WORKING GROUP HELD ON THE 8 NOVEMBER 2006**

I am pleased to attach a report on the recently held meeting of Machinery Directive Working Group (MDWG). At this meeting the Peter Baxter-Ludlow and Phil Papard represented the UK from the DTI and HSE respectively.

There was a full agenda (thirty three papers) for this MDWG that was, originally, to have been a two day meeting. Unfortunately this had to be cut to a single day, and the second day was given over to an informal meeting dealing with guidance issues. There are, therefore, separate reports for each day.

As part of our continuing commitment to involve stakeholders in matters of mutual interest, should you wish to comment on issues of presentation, ie format, length etc, please do so as we very much welcome your feedback.

A handwritten signature in black ink that reads 'Peter Baxter-Ludlow'. The signature is written in a cursive style and is positioned above a horizontal line.

**Peter Baxter-Ludlow**  
Policy Advisor, Mechanical Engineering Directives  
Sustainable Development & Regulation Directorate

# REPORT TO BRITISH INDUSTRY OF A MEETING OF THE MACHINERY DIRECTIVE WORKING GROUP HELD IN BRUSSELS ON 7 NOVEMBER 2006

## SUMMARY

Originally this was to have been a two-day meeting, but due to pressure on meeting rooms within the **COM** it was reduced to a single day. However, to make better use of delegates' time, the second day was given over to an informal meeting to look at two issues. These were the revision of the existing guide, and an initial draft of six frequently asked questions (FAQs) relating to the new directive. However, it was stressed that these FAQs were not a substitute for the guidance on which work is scheduled to start in January 2007 and which may take up to two years to complete.

On the more routine affairs covered by the first day some of the highlights were that there is still the prospect of a minor amendment to the directive concerning pesticide application equipment (item 3 sub item 5), that the **UK's** safeguard actions concerning vibration emissions are temporarily suspended subject to satisfactory action from relevant parties, that there is an agreement in principle to resolving the **UK's** objection to EN 693, the **COM's** insistence that **CEN** produce the list of overlapping standards which the latter regards as totally superfluous; and the increasingly entrenched position that **France** and **Germany** are taking over objections to EN 12215 & EN 13355 that has prompted the **COM** to invite them to a specially convened meeting due to be held before Xmas.

Both meetings were chaired by **Ian Fraser** with administrative assistance by a relatively new-to-machinery seconded national expert from Hungary, **Elod Dudas**.

## DETAIL

### Item 2: Minutes of the meeting held 8 June 2006 (Doc 2006. 28)

There were three editorial amendments, from **France** and **Spain** respectively, deleting comments they claimed not to have made, and one substantive comment from the **UK** (already lodged in writing) relating to the way in which its views on the lack of a transitional period for the new directive had been represented (item 4 refers). The minutes, subject to both **France** and **Spain** confirming in writing their respective positions to the **COM**, were approved with the three amendments accepted.

### Item 3: Matters arising - see summary of questions on the reverse of the agenda

#### 3 (3g) Stability of industrial truck

**CEN** reported that two research projects had recently been completed; one in **France** and one in **Germany**, and that **TC 150** had included a new work item in their schedule to look at lateral stability issues.

#### 3 (3h) Vibrations by concrete breakers

**CENELEC** stated that manufacturers had agreed to supply vibration emission data based on new test codes. Test code measurements have been compared with test house measurements and the results have shown minimal differences. Release of manufacturer's data is anticipated by March 2007. **France** wanted more information on the data, eg were the tests changed for different types of tool? They also asked whether the standard, 60745-2-6, was referenced in the OJ and this was confirmed.

#### 3 (3i) UK formal objection against EN 693 - hydraulic presses

**UK** confirmed that progress was being made. Since the last meeting the **UK** had met with the chair of **TC 143, Dr Knapp**, and reached an understanding that will result in a proposal being drafted that maintains the integrity of para 1.1.2 in the EHSR. The proposal would make clear that if by engineering means other parties were prevented from access to the danger area then the safety of the operative could be ensured in normal operating conditions by the use of two-handed controls for a bed width of up to 1200mm. On receipt of the proposal from **CEN**, the **COM** asked the **UK** to write formally to them accepting the proposal. To formally resolve the issue the **COM** would then remit it to the MDWG for their endorsement.

#### 3 (3n) Overlapping scope of standards

Although recognising the need for a clear line to be drawn between LVD and MD products **CEN** argued that the number of overlaps was minimal and that it should be borne in mind that there were subtle differences between the

philosophies of **CEN** and **CENELEC** as to the outcomes that were desired. The **COM** reminded **CEN** that it expected to see a **CEN** list of the overlapping standards. **CEN** was not convinced of the need for such a list but **Austria** was equally convinced that such a list was needed. The **UK** stated that a distinction needs to be made between overlaps that were significant, and those that were not. The **COM** made clear that it wanted future MDWGs to consider this list so that it could collectively monitor progress on reducing the number of overlaps.

### 3 (3o) Policy on the publication of Machinery standards

No progress; work outstanding.

### 3 (3p) EN 1459 - reference to prEN ISO 13564 - 1

Taken as part of substantive item 7.

### 3 (3.9) EN 280

**CEN** reiterated its previous position that ergonomic criteria needed to be applied to prevent manual over riding of the sliding bars. A public enquiry is to be held to consider this but it is not expected that this will be launched until late 2007.

### 3 (3.12) Standards for washing machines

**CENELEC** stated that a revised paper had been prepared for the **IEC's** Spring 2007 meeting. If the paper were not approved by the **IEC** then a **CENELEC** deviation report would be needed. **Spain** wanted action urgently or a justification for the continuing delay in this area. What was needed was action having completed a case by case analysis of each overlap.

### 3 (3.13) Standards for forestry and agricultural machinery

**CEN** confirmed that there had been little change since the last meeting. The deadline for comments on EN 745 was September 06. It would go to committee early in 2007 and be followed by a second enquiry that was due to begin February 2007. The position on EN 704 was identical to EN 745. The comments made by **Italy** on EN 709 had been considered by **CEN** at it 2/3 November 2006 meeting and would now be subject to public enquiry.

### 3 (3.15) Limitation of the validity of EC - type examination certificates

No progress: work outstanding.

### 3 (3.18) Lifting accessories

Several **M/S** had commented on this paper (WG 2006.13) by the July 06 deadline but unfortunately this had revealed a number of disagreements on the conclusions contained in the original paper. The **COM** would attempt to summarise the position and present a comprehensive paper to a future MDWG for further discussion.

### 3 (8) Formal objection against EN 843 - 3: 1999 (Doc 2006.43)

The **COM** confirmed that a warning had been appended to the standard in the 'L' series of the OJ on 28 October. Unfortunately, despite the **COM** mandate to **CEN** and the fact that it is shortly to be voted on, **Sweden** are still opposed to the revised standard arguing that it does not properly address the concerns specified in the mandate. This is because it takes no account of wear, tear, or the speed with which a projectile might be ejected by the machine - the test curtain only provides for limited protection of about 10% of the speed at which it is ejected before it penetrates the curtain. If the revised standard is passed at vote **Sweden** will propose that it is not published in the OJ. **France** stated the standard was not acceptable as it was only partially completed. They also wanted to know the wording of the OJ reference withdrawing the presumption of conformity. Furthermore, **France** was not convinced of the need for a new standard and wanted the **COM** to give a view on the issue. The **COM** confirmed that action against the existing standard was solely on its non-conformity. If the new amendment were to be acceptable the OJ warning would have to be removed. If not, it would remain. **Italy** queried whether **Sweden** objected to the original standard or the revised one. **Sweden** replied the original standard but the revised standard was equally defective. **Belgium** wanted to know why the standard makers had not taken on board **Sweden's** comments, to which **Sweden** replied that the group was the same one as drafted the original standard and they believed it was perfectly acceptable. **Italy** commented that standards have to provide solutions to problems, and that tests must be appropriate and proven to be effective.

### 3 (11) Equipment for lifting persons with machinery designed for lifting tools

Reference made by **M/S** to item 3 (3.18) but the consensus was that this was not interchangeable equipment.

### 3 (13) Formal objection against EN 14502 -1

To be considered by the **98/34 Committee** at its first meeting in 2007.

### 3 (14) Concerns on prEN 14017: 2005 agricultural and forestry machines - solid fertilisers distributors - safety

**CEN** reported that work on amendment 1 to standard 17017: 2005 had been completed by August 2006. It was now out for public comment (deadline end of December 2006).

### 5 Environmental requirements for pesticide application equipment

The **COM** confirmed that these papers were now available on the **DG Environment** Europa website under 'Strategy for pesticide use'. With reference to Article 95 of the treaty, the **COM Legal Services** have advised against directives having a double legal basis and so an amendment to the new Machinery Directive will be required. The amendment will contain a chapter on pesticide equipment, and there will be additional essential health and safety requirements added to Annex 1 on protecting the environment.

### 8 Formal objections against EN 12215 and EN 13355 - Paint booths and combined paint booths

The disagreement between **France** and **Germany**, on what is/is not safe/acceptable, is still to be resolved. **Germany** brought to the meeting their Health and Safety expert who spoke to a video that explained the tests they had conducted on air flow measurement and process stability, in particular he pointed out that with the car in the booth air flows around the car were higher than that required in **France** (where occupied booths were tested, rather than the German test with an empty booth). However, **France** stated that it was not possible to give a considered reply to the German expert's comments at this meeting. It was the view of **France** that the values used in the German experiments would increase the paint in the atmosphere and consequently some form of 'personal protective equipment' (PPE), to prevent inhalation, was essential. **France** noted that the basis for the views of the two countries were not the same, ie user requirements differ between them because **France** require measurements when the booths were occupied while **Germany** require them when they were empty. For this reason **France** thought the video was flawed as the airflow may be greater for the car/vans in the video but often, in the French scenario, smaller objects are in the booth with the result that there is much less airflow. The **COM** confirmed that **France** and **Germany** had submitted papers to them on this topic and that it was intended to hold a formal meeting with the two countries before the end of this year to try to take action on this forward. The **UK** observed that in all cases shown in the video air fed respiratory PPE was needed, and air flow did not seem to be the key factor in the case shown - the **UK** would consult their experts and feed in any information to the **COM**. Other **M/S** could participate in this debate if they so wished.

### 9 Formal objections against EN 12312 - 9 Container pallet loaders for aircraft

Awaiting translation; to be discussed at the first meeting of the **98/34 Committee** in 2007.

### 10 Formal objections against EN ISO 4251 - 1 Agricultural machinery: General requirements

Awaiting translation; to be discussed at the first meeting of the **98/34 Committee** in 2007.

## **Item 4: Co-ordination of Notified Bodies, Recommendations for Use (RfUs) & Access to machinery (Docs 2006. 21, 23, 19, 30, 20 & 06)**

### Co-ordination of Notified Bodies

It was reported by the **NB-M co-ordinator** that at their last meeting on 21 June 2006 of the 101 members 24 had attended. Attendees represented approximately 1/2 of the **M/S**. Their agenda had included a discussion on the new machinery directive supplemented by a report of the June 2006 MDWG debate by **Ian Fraser**, its Chair. It had also included a discussion on accreditation procedures, and **NBs** had been asked to respond to a questionnaire produced by **NB-M** on the subject in time for discussion on its findings to take place at their December 2006 meeting.

### RfUs (Doc 2006 - 21)

No discussion on this paper as it is for clearance by written procedure. The **COM** deadline for the receipt of comments is 12 January 2007.

## RfUs (Doc 2006 - 23)

This document, which was an item carried forward from the last meeting, contains twelve RfUs that are in dispute. (All are prefixed CNB/M followed by a number xx.xxx). No 01.045 - **Sweden** said they did not understand the new proposal. They had contacted VG1 and were waiting on their response. No 03.059 - ownership of this RfU to be checked. No 03.090 - revision 13 not submitted but available on Circa. The **COM** would check and rule whether it should be discussed at the next MDWG meeting. No 03.162 - remitted to the next MDWG meeting. No 04.041 - **Sweden** accepts the new revision. No 04.048 - see WG paper 2006.06. No 04.056 - **Sweden** to accept revision. No 06.034 - **Sweden** have not seen any new proposal so it is to be remitted to the MDWG meeting. No 09.206 - for discussion by the Horizontal Committee after which it is to be remitted back to a future MDWG. **France** is in favour of this RfU and sees a link between it and agenda item 15 (not discussed due to lack of time). No 09.207 - **Sweden** not clear on the content of this RfU, but are of the view that it should include reference to an EC-type examination. The **COM** said that this (and similar) lists should be used as check lists, and if a RfU was outstanding for a long time the MDWG must take a view as to whether it is important (in which case an answer is required) or unimportant (in which case it would be struck out). **Italy** commented that if RfUs were struck out there could be machines on the market that were not in conformity with the directive. The **UK** said this was a fundamental issue and needed careful consideration. No 09.305 - **Italy** said that limits were not in the standard, but as the standard was under review the RfU could be withdrawn. The **UK** made known to the meeting the view of our key stakeholder group, ie we were of the view that manual levelling should be something that the standard making body should resolve. The **NB-M** were prepared to accept its withdrawal if endorsed by the MDWG. This was given. No 12.014 - the **COM** asked for an update on this RfU from **CEN** after which it will be for discussion at a future MDWG.

## RfUs (Docs 2006.19 & 30)

Taken as part of substantive item 7.

## Access to Machinery (Doc 2006.20)

Because the equivalent item on the agenda of the last meeting, (item 6, 8 June 2006), was not taken due to time constraints, there is a very big backlog of RfUs to clear. As no **M/S** raised any issues on anything connected to this paper - the Vertical RfUs alone run to 269 pages - it was confirmed that they were endorsed.

## Access to Machinery (Doc 2006.06)

**Sweden** gave a resume of this paper confirming that it was a joint **Sweden/UK** response. The **NB-M** raised two issues. Does the question use the correct terminology, and is it (the answer) not just a play on words (for copies of the document, which includes the Q&A, please contact Graham Payne on 0207 215 0923)? Whilst some small editorial changes [to the proposed answer] were acceptable, there needs to be a better understanding of the situation. **Ireland** was uncertain as to the use of "...by written agreement..." believing a manufacturer cannot devolve this responsibility to another person. The **COM** concurred with this viewpoint. The **NB-M** suggested adding the word 'No' to the beginning of the proposed answer. **M/S** agreed this suggestion and **Sweden** agreed to redraft the answer along the lines discussed.

## **Item 5: Progress report on standardisation (Doc 2006.25) & Draft mandate for Directive 2006/42/EC (Doc 2006 - 44)**

### Progress report on standardisation (Doc 2006.25)

**CEN** confirmed that 716 mandates had been issued of which 648 were for **CEN** to action. In addition to these there were a further 180 draft prENs that required further work. Of these (no breakdown between **CEN** and **CENELEC**) 674 were harmonised (standards + amendments) broken down into 119 type A + B standards, 430 type C standards which included 35 Annex IV cases and 125 on type C equipment. In addition to this the categorisation of standards into A, B & C, as required by the MDWG, was nearly complete. **CEN** said would like to see more frequent listings in the OJ of standards that had their approval. **CEN** were actively promoting standardisation for machinery safety in lectures/seminars to participants from countries outside of Europe, eg **China, Russia, Korea, Japan** etc. At their September 2006 meeting they had agreed objectives in relation to work necessary to support the introduction of the new machinery directive. **Austria** asked whether there would be two different annexes of standards, one for each directive. **CEN** had not formed a view on this and would need to consider it further.

**CENELEC** said that 68 mandates had been issued to them. From their perspective they too wanted more frequent listings in the OJ. They want the Date of Work (DOW) to be the Date of Ratification (DOR), ie work on mandates starts with the DOR date and can be as long as 36 months. **TC 61** had prepared a paper on the removal of household appliances from the new Machinery Directive but it was received in the **COM** too late for inclusion on the

agenda for this meeting. Instead it is proposed to make it an agenda item on the LVD Administrative Co-operation Meeting scheduled for the 14 & 15 November 2006 and the outcome of that meeting would be discussed at the next MDWG meeting.

#### Draft mandate for Directive 2006/42/EC (Doc 2006.44)

The **COM** spoke to their paper. They informed **M/S** that all standards have to be reviewed to determine whether they were fit for purpose and to identify gaps where new harmonised standards need to be developed. They also stated that Annexes ZA could be altered in advance of the enforcement date for 2006/42/EC, 29 December 2009. Subsequent revisions to standards would exclude reference to 98/37/EC and the pending introduction of 2006/42/EC. The need to conduct such a comprehensive standards review necessitated a formal mandate from the **COM** to **CEN/CENELEC**. **CEN** stated that the requested date for the production of a work plan to comply with the mandate would be difficult to meet. When asked in the light of the timetable established by 2006/42/EC what was realistic **CEN** suggested 30 September 2007 which the **COM** and **M/S** accepted. **France** said that Annexes ZA paragraphs 2.4 and 2.5 needed to be as precise as possible as they dealt with ergonomics, variability and the interface with Annex 1 paragraph 1.1.6 of the new directive. Comparative data on emissions and the protection of workers needed to comply with Annex 1 paragraph 1.1.7. Besides wanting to see more user participation in the standards revision process, they also believe the views of consultants should be given more prominence especially when drafting revisions to existing standards. **CEN** reminded **M/S** that the basis for making changes was vested in Article 7 of the new directive. They saw no justification for departing from existing practice and procedure given that **M/S** had delegates on the various **European Standards Organisations**. **Austria** stated that a document that made a comparison between old and new standards would be helpful and the **COM** supported this view. Whilst **CEN** stressed the need for uniformity in completing Annexes ZA it was up to individual **TCs** to decide whether to produce comparison tables. The **COM** reminded **M/S** that the role of consultants was subject to strict **COM** guidelines that had been agreed horizontally. The **TUTB** supported **France's** request for greater user participation. Their view is that standards must be fit for their intended purpose, ie that manufacturers' risk assessments must be done on the basis of use in the working environment. The **COM** indicated that there would probably be no quick agreement to the mandate even though it was planned to include it on the agenda of the **98/34 Committee's** 20 November 2006 meeting. The **COM** urged all **M/S** to support their mandate via **M/S** delegates to this meeting.

#### **Item 6: Formal objection against EN 4254 - 1: Agricultural machinery - General requirements (Doc 2006.05)**

**France** reiterated again its dislike for this standard because it allows for an unacceptable dilution in safety requirements. By not giving the operator adequate protection at the coupling point the standard fails to meet the EHSRs as laid down in Annex 1 paragraphs 1.5.13 and 1.3.8.1 of the directive. Not only must the amendment to the standard address protection against mobile transmissions, it also has to state clearly how the requirements of Annex 1 paragraph 3.4.7 will be met. Of the two proposed technical **ISO** solutions on offer only one is acceptable - that which gives the highest level of operator protection. It should also be noted that as presently drafted the standard could lead to two different outcomes, a European standard, and a Rest of the World standard. **Germany** stated that comments on the proposed amendment were due by April 2007. They also believe that once the amendment is published it should be possible to resolve this issue through the normal avenues. To facilitate debate on the issue the **COM** will arrange for it to be uploaded to Circa, but in the meantime it will be informing the **98/34 Committee** that it will be submitting a resolution to withdraw the standard's presumption of conformity from the OJ.

#### **Item 7: Formal objection against EN 1459 - Variable reach trucks: Visibility - interim assessment (Docs 2006.39 & 41))**

The **COM** prefaced the **UK's** presentation by apologising for not uploading paper WG 2006.39 to Circa, but as the issues it covered had been discussed at some length in previous MDWGs, it hoped that its omission would not impact detrimentally on the presentation of the **UK's** case. The **UK** reminded **M/S** of the history of this standard. On numerous occasions the **UK** has stated its belief that the standard is defective. However, following the last meeting when it was agreed that the ref to the ISO 1996 Dis was not appropriate, and should be removed, the matter was raised in a vote in **CEN**. It is regrettable that despite opposition to this revised standard that referred to the ISO DIS 2004 document by the **UK**, **France** and **Germany** it was still formally endorsed in the **TC 150** vote thus undoing the previous good work. Because no progress has been made in correcting its defects the **UK** believe a safeguard action to be the only viable option of remedying the situation but, to be helpful, had proposed an interim solution (see paper WG 2006.41) to the problem. **CEN** commented that at its plenary meeting today, 7 November, it would be discussing whether or not to take up a new work item, ie work on this standard using ISO 5006 as its basis. However, in **CEN's** view, some vision aids are acceptable but a balance needs to be struck so that such aids do not heighten the risk, eg if too many were allowed it might make it impossible for them to be used as intended. Additionally, retrospective fitting was not necessarily a solution. They further added that they would prefer a solution without recourse to a safeguard action as it would allow **TC 150** to review the ISO position quickly. As this view was not supported by **M/S** the **COM** proposed to draft an opinion for the **98/34 Committee** to consider. However, **Austria** did not agree. It was their view that such action was "jumping the gun." But **France** took the

opposite view saying it was necessary to send a clear signal to **CEN** that this standard was not acceptable. Despite **Austria's** concern **M/S** endorsed the proposed **COM** action.

#### **Item 8: Formal objections against EN 28862 - 2, EN 28862 - 5, EN 8662 -14 & EN 792 - 4 (Docs 2006.40 & 45)**

This concerned a further set of **UK** safeguard actions, this time on standards dealing with vibration emissions. Whilst not the sum of the standards covering this area, these are the ones that the **UK** believe are the most defective. The **UK** argued that the use of single axis test measurements underestimated the risk. There was no compliance with the methodology for managing exposure, and no requirement to inform users of the residual risk. From research done by the **British Medical Research Council** in the mid 1990s it was concluded that approximately 300,000 workers in the **UK** suffered from some degree of vibration white finger. It was therefore necessary to withdraw the current test codes and have information on controlling residual risks, eg by applying the short-term solutions as outlined in Annex 3 to the paper. Test codes used must be specified in the technical file. **TC 231** at their October 2006, and **ISO TC 118**, have agreed to revise the standard to take account of tri-axle measurements. However **CEN** were not convinced of the need for these safeguards arguing that this is an old problem that is in decline due to the continuing general improvement in tool design. Consequently they would like to see more recent, and relevant, data on the numbers affected. **France** supported the **UK** saying that EN ISO 2643 was a point of reference for measuring vibration. The test codes allow users to compare vibration figures, and in this respect were useful, but there was no substitute for on-site testing because such measurements were more accurate. But if no data were considered acceptable it would be counter productive to the detriment of the users. **Sweden** said that such standards did enable comparable data for user choice of tools. The **CEN H & Safety Rapporteur** said that they had tested 30 breakers in **Italy** and found differences in the test measurements of 3 - 4 times higher than the standard. A clause in these standards required measurements to be carried out in non-normal circumstances. When these tests were carried out, and allowing for the fact that it was recognised such tests use would increase the vibration levels when measurements were taken, the readings were up to 7 times greater than those recommended in the standards. In the **COM's** view these standards were out of date; the issue was whether the presumption of conformity should be withdrawn. **CEN** acknowledged the seriousness of the problem. In a gesture of co-operation the **UK** agreed to suspend its safeguard actions provided **CEN** indicated without delay a timeframe for resolving these problems and that its position on all these standards is kept under constant review by the MDWG. However, if little/no progress were made quickly, the **UK** would revive the safeguard actions and no further deferments would be accepted - it would be time for action. **Italy** deferred to the **UK's** decision but stressed the need for an acceptable firm timeframe, not a vague one. **Germany** said that adopting tri-axle measurements was quite straightforward. It might take **CEN** longer to produce new vibration emission data that was more realistically akin to on-site use. **Austria** thought some short-term instructions for use were needed. In conclusion the **COM** commented that these standards were not representative of exposure values and should not be used for this, but such data as existed was useful for comparison of tools.

#### **Item 9: Vehicle servicing lifts for snow mobiles (Doc 2005.60)**

This is a **Finnish** Q & A that had been carried forward from a previous MDWG. The **COM** and **M/S** agreed with the paper as presented.

#### **Item 10: MEWPs with more than one load rating (Doc 2005.62, 2006.16 & 17)**

**Italy** stated that the load limiter does not protect users. Operators using dual mode systems have to manually switch on the load moment sensing device at the point at which it is in its new work envelope otherwise operators on this [the new level] are not protected. However, there are exceptions to this requirement if the work platform is limited in size and the overload test is rated at + 150%. **Denmark** agreed with **Italy's** analysis but stressed that there are limits that envelopes can reach, and when operated at the full extent load moment sensing systems work very slowly. With the caveat that without such devices there was a danger of tip-up, **France** said it agreed with **Italy's** Q & A. **Sweden's** view was that the moment = load multiplied by the distance. Having position controls and loading controls was not normal. The **UK** agreed saying that load control was the normal option to accommodate varied load conditions on the platform. The **COM** agreed to draft an answer, **Italy** would be asked to comment on it, and it would then be finalised at the next MDWG. Notwithstanding this **Finland** felt that there should be notified body input to the answer.

#### **Item 11: Standardisation of pre-cast concrete elements (Doc 2006.09)**

To be considered with reference to WG paper 2006.13 (**Sweden's** paper on lifting accessories referenced in paragraph 3. 3 (18) of this paper).

## **Item 12: Refuse collection vehicles (Doc 2006.15 Rev 1) & Footboard riding on refuse collection vehicles (Doc 2006.02)**

### Refuse collection vehicles

This was a **French** Q & A. There was a need to clarify the conformity procedures in the light of an anticipated change to EN 1501 - 1. If the mechanism was wholly automatic then the machine was outside the scope of Annex IV. But if automated action could be bi-passed, thereby introducing an element of manual involvement in the process, then the machine was in the scope of Annex IV. The **COM** and **M/S** endorsed the French opinion.

### Footboard riding on refuse collection vehicles

Although the **UK** said it had banned this practice under its national legislation, there was no real support in **CEN** to adopt the **UK's** position in Europe. The **UK** wanted to stimulate wider debate on the issue hence the presentation of this paper. It is the **UK's** view that footboards should be removed from the standard unless the 'State of the Art' does not allow it - in the **UK** we have shown it does. **Holland** stated that this topic had been discussed some 15 years ago. The view then was that it was not thought feasible for operatives to walk all the time and that the solution (at the time) was to limit the speed at which these vehicles travelled when carrying operatives. **Germany** thought that there was little danger when stepping on/off running boards as there was no fast forward vehicle movement. There was, however, a real danger when entering/alighting from the driving cab. **France** thought it was necessary to limit the speed of these vehicles. The actual [ride-on] space and balance needed by riders were also issues. In urban areas homeowners wanted door-to-door collections so (like **Holland**) they too thought that walking between collections was unreasonable. To understand better the problems associated with these types of vehicles **France** is conducting a study on them and in due course would make their findings available to the MDWG. The **COM** commented that there would appear to be a need for harmonisation here but some **M/S** clearly wanted to retain this practice [of footboard riding] and it was acceptable for them to be fitted/removed nationally, but it was for the standard makers to determine whether a revision of EN 1501 was necessary/justified. The **UK** accepted they had not won over the MDWG (yet!).

## **Item 13: Link spans for access to ships (Doc 2006.04)**

This was a multiple Q & A paper on the linkspans and if in scope of 98/37/EC from the **UK**. Notwithstanding **Spain**, who wanted clarification on what the paper was all about, the **COM** and **M/S** endorsed the **UK's** answers with the caveat that the answer to question 3 be changed because an operator might not be higher than 3 metres, but they could still fall further than 3 metres when the linkspan was in use so were in scope of Annex IV. It was also agreed that such machines only came within scope of Annex IV when it was necessary for the operative to be on the lifting section of the linkspan, ie integral to the working of it, as distinct from it being operated remotely.

## **CONCLUSION**

This was the last paper to be considered because of time: the meeting closed at 18:20. All remaining papers, ie items 14 onwards will be carried forward to the next meeting.

**PB-L/PP**

**Sustainable Development & Regulation Directorate  
Office of Science and Innovation, DTI**

**HSE**

**November 06**

## REPORT TO BRITISH INDUSTRY ON AN INFORMAL MEETING OF THE MACHINERY DIRECTIVE WORKING GROUP HELD IN BRUSSELS ON 8 NOVEMBER 2006

### PREAMBLE

The **COM**, taking advantage of having **M/S** in Brussels for the MDWG, arranged an informal meeting to discuss two issues. Although the meeting was held in English, most **M/S** were present.

### AGENDA

On the agenda were the two questions of:

(i) initiating a major revision of the guidance relating to the existing Machinery Directive

and

(ii) consideration of an initial list of six frequently asked questions (FAQs) pertinent to the new directive.

(i) Guidance on the existing directive

What quickly became apparent to the **COM**, and took them by surprise, was the disinclination of **M/S** to contribute to a major revision of the existing guidance. **Denmark** argued that energies should be concentrated on the issues around the new directive. **Austria**, supporting **Denmark**, thought there was little point investing resources to amend a guidance document that had a limited shelf life, even though it was considered "flawed" in some areas. **Sweden** concurred with both saying that the important thing was the FAQ list. No **M/S** dissented from this view, the **UK** pointing out that even though they had expressed serious reservations in the past about this guidance, and thus had supported a revision, the overall situation had now altered with a new directive and only a few years to arrange guidance on it.

The **COM** therefore agreed to leave the guidance alone although **France** produced a very helpful document that highlighted instances where previous MDWGs had taken decisions that were either not covered in the original guide or called into question the existing published guidance. They asked, in the light of the decision not to revise the guidance *per se*, whether the views expressed in these MDWGs, of which there were twenty nine, could be published. It was agreed that we should work through the list with this objective in mind, and it was noted that most also applied equally to the new directive. This was done and the **COM** will now produce a list of all the MDWG decisions not previously published other than in the minutes of the MDWG, and arrange for its publication. Issues would, of course, continue to come before the MDWG that changed existing precepts, e.g. new interpretations on whether certain products were in the scope of the directive, and these would be picked up in the same process case-by-case.

(ii) FAQs and guidance on the new Machinery directive

In the afternoon the meeting discussed FAQs (see list attached) on 2006/42/EC. The FAQ list provoked much discussion, and disagreement - this was, perhaps, to be expected given that it was the first opportunity **M/S** had had to consider such issues in a round table discussion. With the exception of Q1, which was accepted by all **M/S** bar **Austria**, all the draft answers, as formulated by the **COM**, are to be amended. The most contentious issue was Q6 on the validity of EC-Type certificates. For obvious reasons the **COM** is keen to avoid a situation whereby, on the same date and on five yearly cycles thereafter, all certificates became due for renewal. A solution seems to be to allow **NBs** to review these certificates in advance. **The UK** pointed out that if **NBs** reviewed the certificates in detail this would be costly and would not encourage firms submitting them until the last opportunity, there being no compulsion to do so. It was agreed that such "early" reviews would just address any changes needed due to the 2006/42/EC and pass the others as compliant. These would then be subject to a full review on the 5 yearly cycle. It was made clear that such reviews only have force from the date the new directive applies, ie 29/12/09. This would allow for a staggering of the cycle thus making the **NBs'** action more manageable. It was also agreed that certificates could show both compliance with 98/37/EC until 28/12/09 and with 2006/42/EC from 29/12/09. The **COM** plans to raise these issues with **NB-M** at their next meeting which is scheduled for 4 December.

**Sweden** had questions that they would like to add to the list. The **COM** thought it best to give preference to the existing questions but added that there would be plenty of opportunity for **M/S** to raise other questions, and this was expected to occur without prompting as action progressed to produce the new guidance.

## **CONCLUSION**

In concluding discussion on the question of guidance on the new directive, the **COM** made it known that it would be inviting officials onto a small editorial board ("the board"), probably no more than five/six plus the **COM**, to formulate this. It was not possible to have a one delegate per **M/S** policy as such a group would be too big. Those invited would, in the **COM's** view, be able to "speak with authority" on issues relating to machinery. It was inferred by the **COM** that they may allow **M/S** to nominate individuals if not pre-selected to sit on this board.

The board would be convened in January 2007 under the chairmanship of the **COM**. Its terms of reference, mode of working, and the way in which it wanted to publish this new guidance were issues for the board to agree at their early meetings (the **UK** will encourage the **COM** to take account of best practice established elsewhere for other sectoral directives). The **COM** confirmed that decisions reached by this board would be subject to debate at MDWGs. In concluding the meeting the **COM** said they would be identifying suitable members by the end of the year and that, when convened, they thought it would take the board upwards of two years to produce the new guidance.

**PB-L/PP**

**Sustainable Development & Regulation Directorate  
Office of Science and Innovation  
DTI & HSE**

**November 06**

## **Frequently asked questions relating to the transition from the current Machinery Directive 98/37/EC to the revised Machinery Directive 2006/42/EC.**

1. **Question:** “Is there a transition period for application of Directive 2006/42/EC?”

**Answer:** In general, there is no transition period, in the sense of a period during which both Directives are applicable (with one exception - here is a transition period until 29<sup>th</sup> June 2011 for the particular case of portable cartridge-operated fixing and other impact machinery).

However there is a period of adaptation before the provisions of the new Directive become applicable on 29<sup>th</sup> December 2009. During this period, all of the stakeholders concerned will be able to take the necessary steps to ensure a smooth transition from the current Directive to the new Directive (see below).

2. **Question:** “Can manufacturers apply the new Directive by anticipation?”

**Answer:** Manufacturers cannot declare the conformity of their products with the new Directive before it becomes applicable on 29<sup>th</sup> December 2009. Until that date, machinery must continue to comply with Directive 98/37/EC.

However, manufacturers are encouraged to review their products in light of the new Directive without delay, taking account of the new Directive. Since the essential requirements of the new Directive are in no case less stringent than those of the current Directive, it can be assumed that a machine which complies with Directive 2006/42/EC also complies with the current Machinery Directive.

3. **Question:** “When can a manufacturer establish an EC Declaration of conformity according to the new Directive?”

**Answer:** A manufacturer must establish an EC Declaration of conformity according to Directive 2006/42/EC for products placed on the market as from 29<sup>th</sup> December 2009.

In cases where the manufacturer cannot be certain when individual products will be placed on the market, providing the products concerned comply with both the current and the new Directives, he may establish an EC Declaration of conformity referring to both Directives, indicating that the reference to Directive 2006/42/EC is valid as from 29<sup>th</sup> December 2009.

4. **Question:** “When will manufacturers be able to use the new conformity assessment procedures for Annex IV machinery?”

**Answer:** The new conformity assessment procedures can be used as from 29<sup>th</sup> December 2009.

The Member States will have to assess, appoint and notify Notified Bodies for the new full quality assurance procedure. This can be done as soon as Directive 2006/42/EC has been transposed into national law. These Notified Bodies will not be able to establish approvals of full quality assurance systems before the Directive becomes applicable on 29<sup>th</sup> December 2009. Nevertheless, the necessary audits and inspections may be carried out before that date.

5. **Question:** “Can the current harmonised standards be used to comply with Directive 2006/42/EC ?”

**Answer:** Although many of the essential health and safety requirements of Annex I to Directive 2006/42/EC have not been substantially changed, since there have been some modifications, it cannot be assumed that the current harmonised standards comply fully with the new Directive.

The European Commission is issuing a mandate to CEN and Cenelec to develop the necessary new standards and ensure that the current standards are checked against the new Directive and amended where necessary. Furthermore, all harmonised standards must include a reference to the new Directive. The

Commission intends to publish a list of harmonised standards supporting Directive 2006/42/EC before the Directive becomes applicable.

**6. Question:** "Will EC type-examination certificates established according to Directive 98/37/EC remain valid for Directive 2006/42/EC?"

**Answer:** Since the essential health and safety requirements of Annex I to Directive 2006/42/EC have undergone some modifications it cannot be assumed that EC type-examination certificates issued according to Directive 98/37/EC remain valid for the new Directive. Furthermore, such certificates should be updated to refer to Directive 2006/42/EC.

Notified Bodies will thus have to review existing EC-type examination certificates and update them where necessary. Since Directive 2006/42/EC requires EC type-examination certificates to be reviewed every 5 years (see Annex IX, 9.3), the 5-year period for existing certificates can be counted from this first update according to the new Directive.