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EFTA Workshop in Brussels on 11 June 2008:

"Certification and marking for Europe."

10.40-10.50 *Adrian Harris, Orgalime:*

What has already been achieved with regard to free movement and product safety?

Much has been achieved since the New Approach to technical harmonisation was launched in 1985. The internal market, although far from perfect, has allowed the development and marketing of engineering products essentially to the same specifications throughout Europe. Therefore consumers are today enjoying the benefits of this standardisation and the resulting economies of scale.

At the same time, in our field –the engineering industry – the largest industrial sector in Europe covering 27% of manufactured output – products have gone on improving at the level of their safety, as European regulators have developed a vast array of product legislation under the New Approach.

This has led to a win-win situation: safer products for consumers and workers and an increasingly open Community market: both the growth of the market and statistics relating to accidents and injuries show this clearly. And there is another benefit: ever more competitively priced products.

Which main challenges do we face today?

The European single market is no longer principally about dismantling technical barriers between Member States arising from health and safety concerns. Over the years, regulators have added numerous other regulatory requirements: environmental, energy, work place, etc...

As a consequence, the body of legislation that applies to engineering products has become increasingly complex. This makes the task of coping with the regulatory framework in an ever more competitive global environment ever more difficult, in particular for the more than 100,000 SMEs in our industry.

What is the issue that surrounds globalisation? Basically, competition, or rather fair competition. If all market players play by the same rules, then we have fair competition and this is good for consumers and it also drives innovation. However, if some do not play by the rules, it makes the task of law-abiding manufacturers unsustainable: they face more and more problems with competitors who do not fully apply our laws: in some cases this is due to ignorance, in others, -for example with counterfeit products, this is deliberate. Whatever the case, this situation should not be acceptable either for users, or for authorities and it is certainly not acceptable for our companies. That some should apply our laws while others do not is not reasonable.

Therefore in our view, the main challenge that we face today is to ensure that all products placed on our market are compliant with EU legislation, so that they are safe for users, safe for the environment and safe… for the competitiveness of our companies.

As a result, we place great expectations on the New Legislative Framework (NLF) and on the political will of Member States to provide the means to apply it efficiently. Why? Because it is only proper market surveillance and the more balanced approach to responsibilities in the supply chain for products placed on the market that will ensure that products sold in Europe comply with our laws.

Now what about marks? We know that marks are not the answer: there is no doubt that, if a product bears the CE marking and does not apply our laws, then this is a misuse of the CE marking. This does happen. But the same products also misuse all kinds of other marks that suppliers believe will help to sell the product better: brands, certification marks and quality labels, even if these marks are counterfeited.

Have increased imports from Asia created new challenges?

Trade statistics that are historically coupled with tariffs and custom duties only assess trade flows in weight and value, rarely in numbers. However with regard to safety, numbers are what really matters.

RAPEX statistics show a steady growth in notifications of unsafe products. More than half of these come from China. What does this mean for EU consumer safety? Not as much as some would believe:

- first, because RAPEX is a recent information tool for authorities which today highlights disparate enforcement channels and measures and the varying priority of each of these from one Member State to another. However, what also seems quite certain is that the rise in notifications correlates remarkably with the growth of EU imports from China.

- second, because the number of accidents has steadily decreased in proportion to the number of products placed every year on the European market (Cf. slide where the electrical risk is flagged in RAPEX from 33% in 2004 down to 15% in 2007). Moreover, injuries from our industry's electrical products represent less than 1% of reported injuries in the SANCO IDB (injury database 2002-2004).

So we come back to the same challenge: how do we handle the consequences of globalisation in terms of law enforcement and fair competition in a world where trade is growing by the day?

In this context, we must bear in mind the effect of globalisation is not limited to manufacturing; third-party testing and certification procedures also take place outside the EU, worldwide, but for consumer products, mainly in China. And this inevitably poses a further challenge: Member States' accreditation bodies have no investigative

powers to verify the quality of certification carried out by these test houses, many of them subsidiaries of well known European or US testing and certification companies, outside the EU.

Are all product sectors equally exposed to safety problems?

If one looks at the accident database, engineering products are, it seems, a minor issue: they represent some 1% of all injuries catalogued.

But we must differentiate between product safety and consumer confidence in the safety of the product.

- Product safety, whether for professional or consumer products, is not a choice; it is a must; it is a legal obligation. Unfortunately this legal obligation is not always respected; there are a certain number of so called “rogue traders” and there are counterfeiters. For our manufacturers, the respect of health and safety requirements, evidenced by conformity assessment procedures, is a process that can usually be handled by the manufacturer himself; or else it can be outsourced to third party certifiers. This is true also for other legal requirements.

However, as the EFTA study evidences, third party conformity certificates are used by manufacturers: when they are used, they are usually used for well founded business reasons (QMS, B2B market requirements, insurance, sometimes for regulatory requirements, etc…), and when marks are affixed, they are generally not intended for the final consumer. With the number of marks on some products, it would, in any case, be impossible for the consumer to understand what they are all meant to mean.

- However, consumer confidence in that a product is safe results from an expensive investment by the manufacturer in a complex set of operations of confidence building. These operations include company and product branding, training of installers, service and sales personnel, ad hoc communication and marketing operations. The manufacturer's efforts are often complemented by independent reports by consumers or reports and comments in specialised literature and nowadays more and more on blogs or on the internet in general.

It would be naive to believe that certification and marks are the answer to creating consumer confidence. It would be even more naive to believe that they can solve safety problems in the face of weak market surveillance.

Therefore Orgalime requests that the CE marking should be the visible symbol that the manufacturer takes responsibility for the conformity of his product to our laws.

For us, third party conformity assessment and certification are a valuable business service for the manufacturer to assist him in a number of areas, such as risk assessment, internal production controls, ISO 9000 or 14000 certification, testing for electromagnetic compatibility, for environmental performance, energy consumption, etc... Test houses, because they work for many clients should have the know-how and the testing equipment to provide the service the manufacturer may need.

If this service comes with a mark, then we have a private mark: this should be the result of a private agreement between the manufacturer and the certifier, between the owner of a mark and his clients.

In our view, this is how it should be and this is how it should remain. We have a simple world:

- A regulated world where product safety I evidenced by the CE marking and
- A B2B relationship between manufacturers and test house which must be based upon a normal business to business relationship.

Thank you for your attention.

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