

FEM

Newsletter

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TABLE OF CONTENTS

FEM NEWS	3
FEM PRESIDENT SETS HIS TERM'S AMBITIONS	3
TASK FORCES ACTIVITIES	4
REVISION OF THE MACHINERY DIRECTIVE	4
OUTDOOR NOISE	4
ROAD CIRCULATION	5
DIGITALISATION	5
BATTERIES	7
EXHAUST EMISSIONS	7
EU LEGISLATIVE ISSUES	8
STANDARDISATION POLICY	8
NEW LEGISLATIVE FRAMEWORK	8
PUBLICATIONS AND EVENTS	9
NEW ORGALIM SUPPLY CONDITIONS	9

FEM News

FEM PRESIDENT SETS HIS TERM'S AMBITIONS



“A strengthened FEM to cope with future challenges and recognised by EU policymakers as a key partner for Materials Handling Industries.” This is how FEM’s President Christophe Lautray described the broader objective he set himself for his 2-year term.

In an interview published on FEM website, Christophe explains that he intends to continue to communicate on the importance of our industry for Europe’s future and highlight (FEM) work, priorities and actions through key themes such as; – Skills and attracting the younger generation and retaining talent – Circular Economy – Energy – Digitalisation – Automation

– Diversity and inclusion.

Questioned on the value his company, KION, gets from FEM, Christophe mentions advocacy work, statistics, sounding board for policy makers and platform of exchange. In a highly regulated industry, the role and impact of FEM with policymakers is particularly important.

The full interview is available [HERE](#).

Task Forces Activities

REVISION OF THE MACHINERY DIRECTIVE

The FEM Machinery TF has been closely following developments on the machinery regulation proposal during the interinstitutional trilogue negotiations which started in July 2022.

At the third and last trilogue meeting on 15 December, the European Parliament and Council negotiators struck a provisional deal on the new machinery regulation. More details can be found [here](#) and [here](#). They agreed on sensitive political issues such as the content of article 5 and Annex I on so-called 'high-risk' machinery products. In other words, the co-legislators found a compromise on which machinery products should be listed in part A (subject to third party conformity assessment) and part B (allowing the manufacturer's self-assessment/module A) of Annex I. They therefore decided to include only six machinery categories in part A.

FEM's advocacy efforts paid off, as we managed to convince the negotiators to leave the self-assessment option open for mobile elevating work platforms by listing this machinery in part B. The Parliament and the Council also strengthened Article 5 whereby the Commission will be able to update the Annex I list, after careful assessment and consultations with relevant stakeholders.

Before the last trilogue meeting, FEM has been in in regular contact with the policy advisor of the Rapporteur in the European Parliament, mainly to defend the FEM position on Annex I and some specific essential requirements in Annex III (for instance, regarding the risk of contact with overhead power lines). Another major benefit for the industry, as part of the provisional agreement, is the uptake of digital documentation instead of exclusive paper-based solutions. In short, digital instructions will be the default option. Paper instructions will remain optional at the moment of purchase for customers without access to digital copy. Only basic safety information will have to be provided with every machinery product. The duration of the implementation period is also a big win for the machinery sector, now being set at 42 months after the entry into force of the regulation.

As for the next procedural steps, the provisional agreement needs to be formally approved by the Parliament (first in the responsible committee and then plenary) and the Council (in COREPER) before the official publication of the regulation.

OUTDOOR NOISE

The work of the FEM TF Noise did not progress in Q4 2022, as the publication of the last draft of the revised Outdoor Noise Directive Delegated Act (OND DA) was delayed, and with it also the related public consultation.

After the public consultation, the text will pass to the Parliament and Council for scrutiny, tentatively in Q2 2023. The publication of the Delegated Act is planned for Q2/Q3 2023. Application will probably follow in 2023, although no answer was yet given on the transitional period.

FEM advocacy on outdoor noise will resume in Q1 2023, when updates from the European Commission on the OND DA are expected to be received.

ROAD CIRCULATION

The work of the FEM TF Road Circulation did not progress in Q4 2022, as the publication of the Commission proposal for a [Regulation on the road circulation of non-mobile machinery](#) was delayed to Q1 2023.

The FEM Road Circulation TF meetings will resume when the publication of the proposal will be made public.

DIGITALISATION

Artificial Intelligence Act

The FEM Task Force Digitisation is continuing to follow the legislative developments related to the Commission proposal for an [Artificial Intelligence Act](#) (AIA).

On 6 December, the Task Force finalised a voting list suggestion on the amendments and compromise amendments that the IMCO-LIBE committees (committees responsible) tabled on the AIA, based on the already published FEM proposals for amendments. The voting list suggestion was circulated to shadow rapporteurs on the file, together with requests for meetings. The Secretariat is waiting for possible responses.

The voting on the IMCO-LIBE report is currently foreseen to take place before Easter, while the plenary vote might occur one month or so after.

The Task Force will continue to follow the upcoming developments on the file.

Data Act

The FEM Task Force Digitisation met on 13 December to discuss the amendments tabled by the Parliament on the [Data Act](#).

Compared the FEM proposed amendments on the Data Act, Members of the European Parliament provided various approaches especially to the definition of 'data', 'data holder', on how to deal with trade secrets and on how to regulate compensation for data sharing in Business to Business and Business to Consumer data transactions. Some of those approaches include wording proposed by FEM. However, for others (notably on the definition of data) new options are brought to the table. The Task Force is currently analysing which of those options to support. An FEM voting list suggestion might follow at the beginning of next year.

The committees in the Parliament will vote on their reports between January and February 2023, and trilogues with the Council might start in Q2 2023.

Cyber Resilience Act

The FEM Task Force Digitisation started collecting input on the Commission proposal for a [Cyber Resilience Act](#) (CRA). The content was discussed during the Task Force meeting of 13 December.

Some of the FEM concerns revolve around the 'critical products' listed in Annex III of the proposal, and the potential implications of the new cybersecurity requirements and potential third-party conformity assessments on FEM equipment.

For the moment, FEM is providing its comments to Orgalim and contributing to the Orgalim position paper on the CRA. Discussion on the drafting of a potential FEM position paper on the CRA arised during the Task Force meeting, however, the FEM digital policy priorities for 2023 would have to be adjusted.

The Parliament and Council are still in their preparatory phase. The ITRE (committee responsible) draft report on the CRA is currently expected for March 2023, and the vote in plenary will tentatively take place in the summer 2023. Trilogues would then start after the summer 2023.

BATTERIES

The Batteries Regulation proposal ranks high on FEM's agenda. In the past months, FEM closely monitored the legislative process and continued its advocacy work towards EU decision-makers in the European Parliament and the Council.

On 9 December, the EU institutions reached a provisional agreement on the Battery Regulation. FEM TF Battery will hold a meeting in January to assess and discuss the outcomes of the agreement and next steps as well as to identify relevant implementing acts and decide the ones to prioritise and follow actively.

For further information, please contact [Elena Maccaferri](#).

EXHAUST EMISSIONS

The latest GEME meeting took place on 17 November. One particular issue of interest to FEM is the amendment to Regulation (EU) 2017/655 regarding the extension of the scope of non-road mobile machinery (NRMM) engines subject to the requirements of in-service monitoring (ISM). The scope of the existing regulation is limited to the ISM of NRMM engines with a power of less than 56 kW and more than 560 kW. However, as Stage V Regulation covers all engine categories, the ISM regulation (EU) 2017/655 needs to be amended to include all engine categories, not just those identified in the abovementioned sub-categories.

The draft amendment to the Delegated Regulation (EU) 2017/655 was adopted at the end of August 2022 and has gone through the two-month scrutiny process by both the European Parliament and Council. It is therefore expected to be published in the EU Official Journal in due course, by the end of the year at the latest.

EU Legislative Issues

STANDARDISATION POLICY

As announced in the Standardisation Strategy, a targeted amendment to the Regulation 1025/2012 has undergone the co-decision process in the last months. In short, this technical amendment to article 10 is intended to ensure that only representatives of the national standardisation bodies within the competent decision-making body will be taking decisions on European standards.

The European Parliament and the Council reached a provisional political agreement in one trilogue meeting on 12 October, after which the Parliament [approved](#) the final text in plenary on 22 November and the Council (Justice and Home Affairs) [validated](#) this approval on 8 December. The legislative act will now be signed by the President of the European Parliament and the President of the Council, before being published in the EU Official Journal. It will then enter into force twenty days afterwards.

NEW LEGISLATIVE FRAMEWORK

On 15 November, the European Commission released its [Staff Working Document](#) and the [executive summary](#) on the evaluation of the New Legislative Framework (NLF), following the publication of the external evaluation study (carried out by CSES) in May 2022.

On the whole, the Commission reflects the conclusions of the evaluation study in its Staff Working Document, by pointing out that the NLF has greatly contributed to achieving its four objectives, namely: 1) Reinforcing the New Approach; 2) Supporting the consistency and coherence of EU harmonisation legislation; 3) Strengthening the conformity assessment system; 4) Enhancing the clarity and credibility of the CE marking.

The NLF is therefore broadly fit for purpose when it comes to the criteria of effectiveness, efficiency, relevance, coherence, and EU-added. Some shortcomings have been however identified in terms of relevance, due to the question of whether the current framework can sufficiently adapt to current and future trends related to digitization, circular economy concepts (including remanufacturing, substantial modification etc.), complex value chains, and other similar challenges.

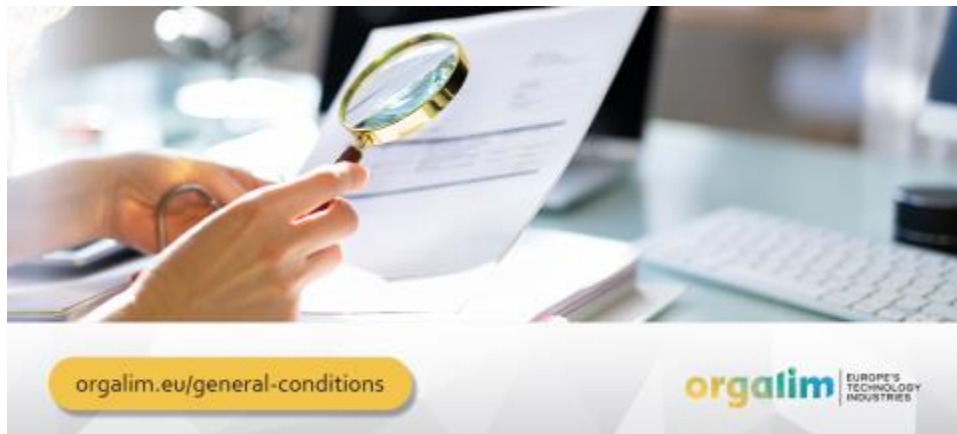
As a result, the Commission concludes that it may carry out an impact assessment on a possible revision of the NLF, to specifically address such new trends. For instance, the impact assessment could explore the following options: introducing a new NLF module targeted at products subject to substantial modification following their placing on the market/putting into service; formalising the use of digital documentation across NLF-aligned legislation through different tools such as digital instructions, digital CE marking and a digital product passport (which could include an electronic Declaration of Conformity and the description of the conformity assessment procedure used).

Publications and Events

NEW ORGALIM SUPPLY CONDITIONS

Orgalim has released a new edition of its world-renowned supply conditions, the General Conditions for the Supply of Mechanical, Electrical and Electronic Products. S 2022 update S 2012 to reflect legal developments and experience with supply contracts in the technology industries. It is the third revision since the Orgalim Supply Conditions were introduced in 1992.

Building on the success of S 2012 and their endorsement in international business where they are widely used, the 4th edition of Orgalim Supply Conditions brings about clarifications and some additions without compromising on the balanced approach towards the parties' interests.



What is new?

Among the updates are an adapted definition of “Gross Negligence”, a specific clause on intellectual property, a simplification of payment terms and a clarification of the liability for infringement of intellectual property rights.

Lindsay Hopmans, Attorney-at-law at Orgalim’s Dutch member federation FME, and convenor of the S 2022 drafting group, said: *“With nearly 1500 active licences, Orgalim Supply Conditions are an immense success, used internationally, and accepted broadly. This new edition keeps the core of the text whilst bringing changes that make it clearer, more complete, and legally up-to-date.”*

S 2022 are immediately available in 13 languages, with additional linguistic versions to be developed in the coming months. The Supplementary Conditions S 2012 S on supervision of installation are under revision and will soon be released as S 2022 S.

Licenses to use S 2022 are available for purchase on [Orgalim’s licensing website](#), along with 9 other sets of Orgalim general conditions designed to give concrete and comprehensive solutions in support of companies engaged in business-to-business transactions worldwide.

THIS NEWSLETTER IS RESERVED

TO FEM MEMBERS

FOR ANY ENQUIRY, PLEASE CONTACT:

FEM Aisbl

Olivier Janin, Secretary General

BluePoint Brussels

Bd. A. Reyers 80

B-1030 Brussels (Belgium)

Tel: +32 2 206 68 66

Email: info@fem-eur.com

www.fem-eur.com