



FEM Bulletin

Quarterly publication of the European Materials Handling Federation
Issue 2020/04

NEW TECHNOLOGIES & MACHINERY LEGISLATION

21 January 2021 | 9.30 – 11.00 am CET | Virtual event

PROGRAMME

- 09.30 **Welcome & introduction**
Riccardo VIAGGI, CECE Secretary General
- 09.35 **What to expect from the upcoming revision of the Machinery Directive**
Barbara BONVISSUTO, Head of Unit, DG GROW,
European Commission
- 09.45 **Practical experience from the industry: presentations from FEM & CECE industry experts**
- Luisa PARISOTTO, Sr. Regulatory and Compliance Manager at Terex AWP and Member of the Board of FEM
 - CECE industry speaker *tba*
- 10.05 **Machinery legislation from a Member State's point of view**
- 10.15 **Open discussion and debate**
Moderated by Dale CAMSELL
- 10.45 **The view from the European Parliament**
MEP Andreas SCHWAB, IMCO Committee,
European Parliament
- 10.55 **Wrap-up and closing remarks**
Olivier JANIN, FEM Secretary General



Machinery Directive's revision kicks off

FEM partners with CECE to hold the first policy discussion on the revision of the Machinery Directive

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FEM News

Jos De Vuyst re-elected President of FEM



On 2 December 2020, FEM members unanimously re-elected Jos De Vuyst, CEO of Stow, as President of FEM. He will serve a second mandate until 2022. Maurizio Tansini, Head of Konecranes Industrial Cranes Italy and President of the Italian association AISEM, was elected Vice-President.

Reacting to his re-election, Jos De Vuyst said: *"I am grateful to FEM members for the trust placed in me for a second mandate. The past few months have been unprecedentedly challenging. Going forward I intend to focus my efforts on supporting our industry towards post-corona recovery. As major regulatory developments lie ahead of us, FEM will have a vital role in ensuring a supportive framework for our companies."*

In addition to Maurizio Tansini, Rémy Jeannin, President of Savoye, Noblelift Group, joins the Board. Finally, two former Presidents of FEM, John Meale (Thorworld) and Jan van der Velden (Vanderlande), stepped down after many years of active engagement in FEM. Members expressed their profound gratitude for their invaluable contribution to the organisation and to the European materials handling industry.

Product Groups news

Racking & Shelving



At the virtual AGM held at the end of September 2020, Mr Eugen Talmann took over the Presidency from Mr Jos De Vuyst. Mr Talmann had held the position of Vice President since 2019 and has been on the Management Board as the representative for Germany for many years.

Elevating Equipment

On 15th December, the MEWPs Product Group officially endorsed the inclusion of the Elevating Equipment (EE) Product Group as a MEWPs subgroup. The Elevating Product Group had taken such a decision a few weeks earlier. The management of the EE subgroup will remain in the UK.

The result of this inclusion is the disbanding of the EE PG, which was provisionally ratified by the General Assembly of FEM on 2nd December. FEM now counts 5 product groups and 5 subgroups (3 in the Cranes PG, 1 in the Industrial Trucks PG and 1 in the MEWPs PG).



Task forces activities

Machinery Directive

FEM participated in the last Machinery Working Group which took place on 9 and 10 November 2020. The highlight of the meeting was the Commission's presentation of its draft proposals to revise the legal text of the Machinery Directive. The Commission requested stakeholders to provide their feedback on the proposed changes by 8 December. Most proposals consisted of specific requirements in Annex I regarding new technologies, as well as changes to certain definitions (e.g. partly completed machinery) and introducing additional provisions to allow digital documentation.

The FEM Machinery Directive Task Force held two web meetings on 26 November and 4 December to prepare a detailed contribution to the Commission proposal. In addition to the specific technical comments on the Commission text, FEM also elaborated a [general position paper](#) to highlight key FEM statements in view of the upcoming revision proposal. The complete FEM contribution was submitted to DG GROW in the Commission on 8 December.

FEM is now awaiting the Commission official proposal and the impact assessment report to be issued by the end of the first quarter of 2021. The European Commission announced that the revision proposal will be part of the upcoming Artificial Intelligence Package foreseen by the end of March 2021.

On 21st January, FEM and CECE will host a [webinar on "New Technologies and Machinery Legislation"](#). A few weeks before the publication of the proposal for a revision, the event will provide an opportunity for an interesting exchange between industry and EU decision-makers.

Outdoor Noise Directive

The European Commission has recently published the [evaluation report](#) and [Staff Working Document](#) on the revision of the OND. The evaluation conclusions are broadly positive in terms of the criteria that has been assessed: effectiveness, efficiency, relevance, coherence and EU added value. On the other hand, a number of critical aspects have been identified, particularly in terms of the scope, noise limit requirements for specific types of outdoor equipment, test codes and measurement methods, conformity assessment procedures, noise database and alignment to the New Legislative Framework.

The Commission has not decided yet on the way forward: either fully revise the OND or adopt delegated acts to revise the Annexes of the Directive (especially Annex III on measurement methods).

The FEM TF Noise will have an online meeting on 15 January to discuss the findings of the evaluation report and prepare an FEM position, notably expressing FEM's preference for one of the options at stake (full revision or delegated acts). The next expert group meeting is scheduled for 2 February - it

is expected that more information on the Commission's decision regarding the OND revision will be given at that meeting.

Exhaust emissions for non-road mobile machinery

FEM conducted an internal survey shared with the TF NRMM members to evaluate the impact of the 2021 transition deadlines in the NRMM Regulation for the materials handling manufacturers in view of the ongoing COVID-19 disruptions. The outcome of the survey identified a major impact for telehandlers only, while the other product groups are marginally affected. The European agricultural machinery association (CEMA) reached to FEM and the other ITF associations to ask whether the NRMM coalition would support CEMA in formally requesting another extension of the 2021 deadlines for the production and placing on the market of NRMM in power categories $\geq 56\text{kW}$ to $< 130\text{kW}$.

As a result, the FEM TF NRMM convened a meeting on 29 October to assess four options of engagement available (from no involvement at all to full engagement in an advocacy campaign) and discuss what the FEM position should be. After internal consultations in the FEM Product Groups, the matter was referred to the FEM Board since a clear path could not be defined. This is because only one Product Group is partly affected and interested in a request for an extension of the 2021 deadlines, but not prepared to finance advocacy work. Moreover, a few member organisations gave some support to an engagement from FEM without, however, a clear stance on the level and form of the engagement.

The Board carried out a thorough fact-based analysis of the situation and concluded that FEM should take a neutral position and not engage in advocacy activities concerning the 2021 deadlines. FEM will however continue monitoring any relevant developments on this issue.

Upcoming Batteries Regulation

Batteries have been identified as one of the key strategic value chains and technology to achieve a green transition. After several months of preparation, on 10 December, the European Commission has finally published [its proposal to revise the Batteries Directive](#) (2006/66/EC).

The European Commission tabled a very ambitious proposal to reach its objective: all batteries placed on the EU market should become sustainable, high-performing and safe all along their entire life cycle.

All types of batteries fall in the scope of the proposal: industrial, automotive, electric vehicle and portable batteries. However, some provisions apply only to certain categories of batteries, or even sub-categories.

First, it should be noted that the Commission narrowed down the portable battery category by adding a weight threshold of 5kg.

The proposed new Regulation suggests mandatory requirements on:

- sustainability and safety (carbon footprint rules, minimum recycled content, performance and durability criteria, safety parameters);
- labelling and information (storing of information on sustainability and data on state of health and expected lifetime);

- end-of-life management (extended producer responsibility, collection targets and obligations, targets for recycling efficiencies and levels of recovered materials);
- obligations of economic operators linked to product requirements and due diligence schemes;
- electronic exchange of information.

As regards the collection of waste portable batteries, the Commission suggests targets of 65% by 2025 and 70% by 2030. As regards industrial batteries, no specific collection rates. However, new reporting system will be introduced and producers of industrial batteries will have to implement take back and collection arrangements.

Contrary to earlier information, requirements enhancing sustainability, such as carbon footprint and durability declaration (as from 2023/2024), would apply to rechargeable industrial batteries with capacity above 2kW in addition to electric vehicles batteries. As a next step, they will set minimum values to be met from 2026/2027.

The Commission also suggests requiring declaration of the amount of cobalt, lead, lithium or nickel recovered from waste in industrial batteries with a capacity above 2 kWh, by 2027. They suggest going further around 2030 by imposing minimum share of cobalt, lead, lithium or nickel recovered from waste.

To improve sustainable raw material sourcing, importers of raw materials and economic operators must incorporate traceability systems in their supply chains that fall in line with the set out standards from the OECD Due Diligence Guidance, which are subject of verification by third party verification bodies.

As a next step, the FEM Task Force Battery will analyse the Commission proposal at its next meeting on 13 January. We will also closely follow the legislative process in the Council and European Parliament to start in early 2021.

SCIP database

The [SCIP database](#) formally opened for submitting notifications on 28 October. According to ECHA, consumers and waste operators will access and use the data from February 2021 onwards.

At this stage, it is clear that that the notification deadline will not be postponed. In the last months, FEM has increased its advocacy work together with the industry collation driven by the automotive and technology industries that more than 40 trade associations.

We faced a dead end in all European Institutions. In a meeting with the DG Environment's deputy Director General: Joana Drake, some shortcomings and the tight timeline have been acknowledged by Commission's officials. However, the Commission reiterated that they are not empowered to modify the Waste Framework Directive, nor the compliance deadline for the SCIP database.

Despite the many actions, the industry did not get the necessary political support in decision makers. i.e. the Council and European Parliament. In a recent reply to our letter to the German Presidency, the German Minister for the Environment, Svenja Schulze, wrote that *"Taking into account that ECHA officially launched the database on 28 October 2020, I do not consider it expedient to ask the Commission to carry out further studies nor do I think that the response will be positive"*. She added

that “*although discussions about details are important, we cannot lose sight of the objectives of the database*”. Finally, she asked “*you and the business associations you support enter the relevant information in the database in timely manner*”.

We continued or advocating to reshape this database in order to decrease the burden for manufacturers, without major success.

Other industry associations are still trying to challenge this database. For example, APPLiA (home appliances industry) sent a complaint to the EU Ombudsman to urge action leading to aligning the implementation of the database with its legal basis (see press release [here](#))

Manufacturers must be ready to submit their data as from 5 January 2021. To do so, ECHA published guidelines on Information requirements for SCIP notifications called manual user (see [here](#)) and a series of tools, including tutorials (see [here](#)).

Digitalisation

Cybersecurity

On 16 December, the European Commission presented a cybersecurity policy package consisting of: a) a [Communication on a new Cybersecurity Strategy](#), b) a [proposal for a revised Directive on security of networks and information systems \(NIS 2\)](#) and c) a [proposal for a Directive on Critical Entities Resilience \(CER\)](#).

The NIS 2 proposal aims to address the deficiencies of the current NIS directive. It notably expands its scope with the addition of new sectors (e.g. providers of public electronic communication networks or services; digital services such as social networking services platforms and data centre services). It also addresses security of supply chains and supplier relationships by strengthening supply chain cybersecurity for key information and communication technologies.

Internal Digital Market

On 15 December, the European Commission presented a set of proposals reforming the EU Digital Internal Market: a comprehensive set of new rules for all digital services, including social media, online market places, and other online platforms that operate in the European Union. Two Regulation proposals have been tabled: the [Digital Services Act \(DSA\)](#) and the [Digital Markets Act \(DMA\)](#).

Under the DSA, obligations will apply to all digital services that connect consumers to goods, services, or content, including new procedures for faster removal of illegal content as well as comprehensive protection for users' fundamental rights online. The new framework will rebalance the rights and responsibilities of users, intermediary platforms, and public authorities and is based on European values - including the respect of human rights, freedom, democracy, equality and the rule of law.

Under the DMA, negative consequences arising from certain behaviours by platforms acting as digital “gatekeepers” will be addressed.

Although these two proposals are not the most impactful EU digital initiatives, FEM will monitor the progression of the two proposals, in particular the DSA.



EU legislative issues

General Issues

Standardisation Policy

The latest SMAART meeting took place on 26 October. The European Commission informed participants about a draft standardisation request on batteries that is currently under inter-service consultation. Among the main topics discussed, industry participants raised the issue of including a standardisation chapter in the draft revised Blue Guide, while the current standardisation discussions on the role of harmonised standards have not been concluded yet. The industry proposed the alternative of publishing the Blue guide without changes to the section on the use of harmonised standards and therefore keeping the existing text from 2016 unchanged.

On the Standardisation Strategy, the Commission announced that the work is still in the early phase, but stakeholders will soon be consulted before the adoption of the Strategy. The industry stakeholders pointed out the ongoing problems related to the citation of harmonised standards, which seem to have increased for several sectors. One of the main reasons are shortfalls in the interaction between the HAS consultants, the Commission and the technical committees. As a result, many standards are not offered by the European standardisation organisations to the Commission for publication but are instead just published as simple European standards.

The next Committee on Standards (CoS) meeting is scheduled for 8 March 2021, to be preceded by the SMAART meeting 2-3 weeks in advance.

Market surveillance

In the framework of the revision of the Blue Guide, the FEM Technical and Regulatory Committee worked extensively on the FEM comments on the first draft revised Blue Guide ahead of the deadline of 11 November. Three web meetings were organised to discuss and consolidate the contributions received. FEM submitted its input on 11 November and received confirmation from the European Commission that the FEM feedback will be carefully examined. The aim is to publish a revised version of the Blue Guide by the end of July 2021.

In parallel to this activity, the Commission has also embarked on the evaluation of the New Legislative Framework. The process started with the publication of an evaluation [Roadmap](#) /Inception Impact Assessment. The evaluation will cover certain aspects of the NLF, except the provisions of the Regulation (EC) No 765/2008 relating to market surveillance which were already revised (through the Market Surveillance Regulation (EU) 2019/1020 that will replace those provisions as of July 2021).

The evaluation objective is to reassess the fitness for purpose of the NLF in view of the ever-evolving digital environment and the increasing digitalisation of products as well as the fast growth of circular economy concepts (e.g. remanufacturing). The performance of the NLF will be analysed against the usual evaluation criteria (effectiveness, efficiency, relevance, coherence, EU added value).

In particular, the assessment is intended to focus on whether:

- the NLF is suited to address the way products may be changing during their lifetime to both support the take-up of smart connected or remanufactured products and to ensure safety;
- the conformity assessment procedures remain fit for purpose and ensure the safety and compliance with the applicable legislation for the products placed on the EU market;
- the rules for notified bodies are robust enough to ensure the competence of those bodies;
- the accreditation system works well and ensures that the competence of the notified bodies intervening in the conformity assessment procedures is sufficiently guaranteed;
- affixing the CE marking and other product information to the product itself continues to be adequate;
- whether the lack of a crisis instrument for urgency situations (e.g. current COVID-19 crisis) renders the NLF less effective or efficient than it should be

Regarding next steps, the public consultation on the NLF evaluation is foreseen in the first quarter of 2021.

Radio Equipment Directive

The FEM Technical and Regulatory Committee monitored the latest developments on the issue of 'internet-connected equipment and wearables' related to cybersecurity aspects (RED article 3(3), d, e and f – on network security, protection of data privacy and protection from fraud) via Orgalim. At the latest Commission Radio Equipment Expert Group meeting on 17 November, the Commission announced that it will proceed with the adoption of a delegated act for RED article 3.3 (d,e,f) to be adopted in March 2021. Interested stakeholders were requested to provide their views on the scope of the upcoming delegated, the applicable articles and the implementation period. FEM supported the Orgalim position paper on the aspects below, notably:

- Proposing an amended definition of 'connected devices', putting the emphasis on the 'connection to the internet' as a key criterion to define radio equipment in the scope of this delegated act.
- Limiting the application of RED articles to article 3.3 e) and f) in the delegated act, and not 3.3 d), as the former would sufficiently cover cybersecurity aspects.
- Proposing a transitional period of five years (i.e. five years after publication of the delegated act – estimated in Q3/2026) and stressing that if this is not considered, an absolute minimum of 36 months is necessary.

Electromagnetic Compatibility Directive

The European Commission launched the [public consultation](#) on the evaluation of the Electromagnetic Compatibility Directive (EMCD) which is running until 29 January. As a reminder, the main objective of the evaluation is to assess if the EMCD is still fit for purpose in terms of effectiveness, efficiency,

relevance, coherence and EU added value, as well as to collect input on possible implementation challenges which may require regulatory or/and non-regulatory measures.

Road Circulation

The European Commission published in November 2020 the [public consultation](#) in view of the future proposal harmonising technical safety requirements for the road circulation of non-road mobile machinery.

The aim of the consultation is mainly to collect feedback from stakeholders on the impact of the following policy options:

1. EU approval of the whole mobile machine granted by Member States authorities with two sub-options:
 - Type approval: all technical specifications for all parts of the machinery to be included in the legal text
 - Hybrid approach (type approval systems combined with New Legislative Framework type of legislation): mandatory technical specifications in the legal text only for parts of the mobile machinery that are critical for road safety (e.g. braking, steering) ; for the less critical parts, the basic requirements are laid down in the legal text while the technical specifications are set out in harmonised standards

2. CE marking of the whole mobile machine granted by the manufacturer

This option would be shaped according any CE marking product legislation under the NLF. By affixing the CE marking the manufacturer declares compliance of the whole machine with all the legal requirements. For the entire machine and all parts, the essential requirements are included in the legal text and the technical specifications are described in the harmonised standards

Under any of the policy options, the Machinery Directive will continue to apply alongside the future road circulation legislation.

This public consultation will run until 2 February. The Commission legislative proposal is planned to be adopted in the second half of 2021.

EU response to COVID-19

EU budget 2021

Early December, the three EU institutions reached an informal political agreement on the EU's budget for 2021, the first under the 2021-2027 EU long-term budget.

Member States adopted their position at the European Council meeting on 10-11 December, while the European Parliament is expected to adopt the budget for 2021 before Christmas.

Once adopted, the budget can start running from 1 January 2021. It will allow the EU to mobilise significant public funds for a continued EU response to the coronavirus pandemic and its consequences; to kick-start a sustainable recovery and to protect and create jobs.

The total commitments in the 2021 budget are set at €164.2 billion and total payments at €166.1 billion. Funding has been directed towards mitigation of the effects of the COVID-19 pandemic, support for a sustainable recovery and the EU's green and digital transitions, in line with the priorities addressed in the next multiannual financial framework.

Multiannual financial framework and recovery instrument

For the 2021 budget to deliver on the ground, the European Parliament and the Council need to finalise the 2021-2027 multiannual financial framework and the recovery package.

This would follow the agreement from 10 November 2020, when the two institutions with the involvement of the Commission struck a deal on the next long-term budget and NextGenerationEU, the temporary recovery instrument. Once finalised, this would constitute a €1.8 trillion package to help rebuild a post-COVID-19 Europe.

At the European Council meeting on 10-11 December, Member States reached an agreement on several issues, including own resources and conditionality mechanism. This paves the way for a final deal with the Parliament and to finalise the adoption of the financial framework and European Union Recovery Instrument.

Climate Policy

In December 2020, in light of the need to increase climate ambition, the European Council endorsed a new 2030 target for emission reduction. EU leaders agreed on a binding EU target for a net domestic reduction of at least 55% in greenhouse gas emissions by 2030 compared to 1990.

Besides fostering sustainable economic growth and job creation, this climate ambition is seen as a driver for the long-term global competitiveness of the EU economy by promoting innovation in green technologies.

EU leaders highlighted the importance of mobilising public finance and private capital and recalled the overall target of at least 30% of the total amount of expenditure from the multiannual financial framework and NextGenerationEU – the recovery instrument, being directed to climate action.

To promote the development of common, global standards for green finance, the European Council invited the Commission to put forward a legislative proposal for an EU green bond standard by June 2021 at the latest.

Trade

BREXIT

Whilst negotiations continue, the UK has published various guidance documents have been published by the UK. For more information see:

- [Placing manufactured goods on the EU market from 1 January 2021](#)
- [Placing manufactured goods on the GB market from 1 January 2021](#)
- [Placing manufactured goods on the market in Northern Ireland from Great Britain](#)

- [Placing manufactured goods on the market in Northern Ireland from the EU](#)

The UK has also published a [list of designated standards](#), which are the UK equivalent of the EU harmonised standard lists that are published in the OJEU. These designated standards can be used to gain a presumption of conformity against the new UK regulations for placing products on the GB market from 1 January 2021.

Intellectual Property

Intellectual Property Plan

On 25th November the European Commission issued “[An intellectual property action plan to support the EU’s recovery and resilience](#)”. One of the follow-up actions of the New EU Industrial Strategy issued in March this year, the Action Plan revolves around 5 priorities: Improving the protection of IP, boosting the uptake of IP by SMEs, facilitating the sharing of IP, fighting counterfeiting and improving enforcement of IP rights, and promoting a global level playing field.

Member States are called to make for a rapid rollout of the unitary patent system to create a one-stop-shop for patent protection and enforcement across the EU. The EU is also due to establish an anti-counterfeiting toolbox to promote and facilitate effective cooperation between IP right holders, intermediaries (such as online market places) and law enforcement authorities, mainstream best practice and the use of adequate tools and new technologies.

For more information, see the [Q&A](#) and the [Factsheet](#).



Publications & events

European Materials Handling Federation

FEM position paper
on placing on the market forklift trucks, rough-terrain variable-reach trucks and variable-reach tractors without forks or interchangeable equipment

Brussels, 26 November 2020

Executive summary
Directive 2006/42/EC does not preclude manufacturers from placing on the market forklift trucks, rough-terrain variable-reach trucks and variable-reach tractors not fitted with forks or interchangeable equipment provided that obligations for 'machinery' in Article 5 (1) are fulfilled. In particular, manufacturers must provide instructions with the essential characteristics of forks and interchangeable equipment which may be fitted, draw up the EC declaration of conformity of the truck and/or the PME (Permanently Mounted Equipment) of the rough-terrain variable-reach tractor, affix the CE marking.

Introduction
This document provides clarification on the possibility to place on the market units of forklift trucks, rough-terrain variable-reach trucks and variable-reach tractors not provided with forks or interchangeable equipment.
Forklift trucks, rough-terrain variable-reach trucks, rough-terrain variable-reach tractors and their Permanently Mounted Equipment (here after referred to as 'trucks', 'RTVR tractors' and 'PME' respectively) are defined in ISO 5053-1 and CEN/TS 1459-9 as applicable.
The reference legislation:
- for trucks is Directive 2006/42/EC (Machinery Directive)
- for RTVR tractors is Regulation (EU) No 187/2013 (Tractor Mother Regulation) and Directive 2006/42/EC (Machinery Directive) applicable to the PME (see also FEM Guide 4.104 for their application).
In both cases, fitting attachments (forks or interchangeable equipment) is addressed by Directive 2006/42/EC and the Guide to application of the Machinery Directive.
Conclusions in this position paper applies to trucks and RTVR tractors that are placed on the market complete of all parts with the only exception of attachments (forks or interchangeable equipment). For products also lacking of parts other than forks or interchangeable equipment see "Partly completed machinery" below.

*By virtue of the Agreement on the European Economic Area (EEA), machinery and partly completed machinery that complies with the Machinery Directive also benefits from free movement in Iceland, Liechtenstein and Norway. The same is true in Switzerland by virtue of the Mutual Recognition Agreement (MRA) with the EU, and in Turkey, Andorra and San Marino by virtue of the Customs Union Agreements between the EU and those countries. See Paragraph 8.017 of the Guide to

[FEM position paper on placing on the market forklift trucks, rough-terrain variable-reach trucks and variable-reach tractors without forks or interchangeable equipment](#)

VANDERLANDE

WHITE PAPER
*Expect the unexpected:
lessons learned from COVID-19 affecting
warehousing and parcel logistics operations*

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Expect the unexpected: lessons learned from COVID-19 affecting warehousing and parcel logistics operations

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