

FEM

Newsletter

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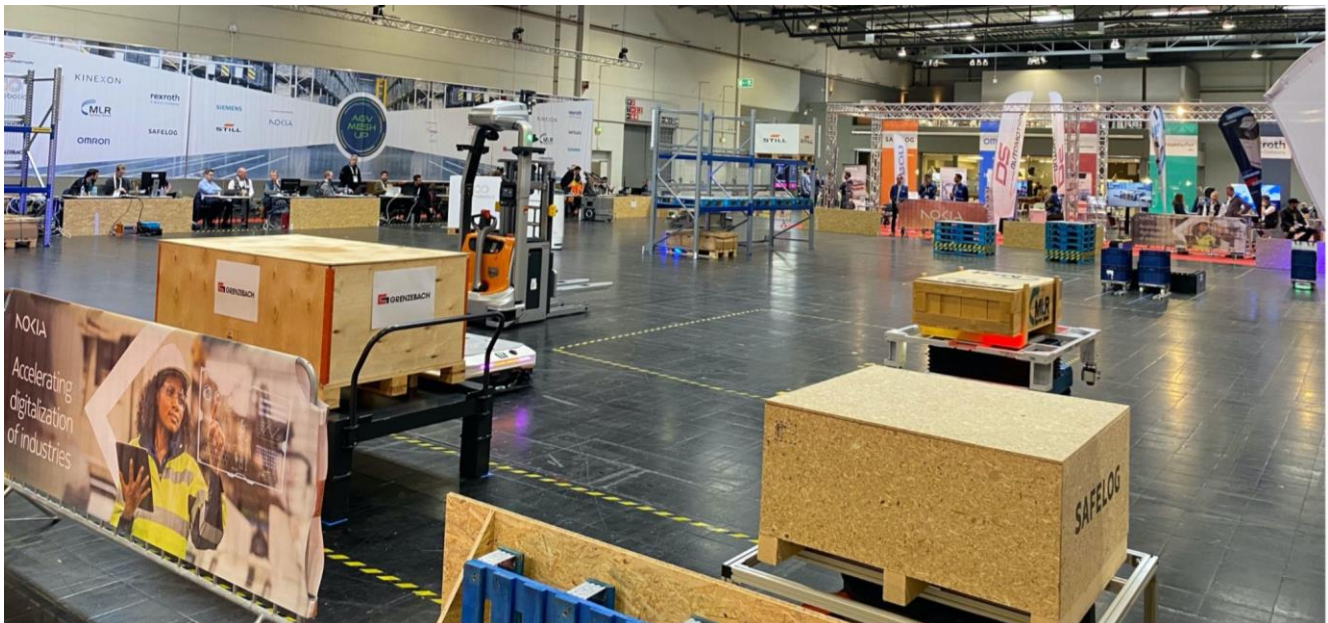
FEM News

FEM MEETS IN DORTMUND

FEM held its first 2023 meetings on 30th March in Dortmund. Hosted by VDMA, the meeting was organised during the [IFOY Award](#) testing days. The Executive Committee meeting provided an opportunity to give an update on various policy files (machinery, data, cybersecurity, battery) and present FEM's work. Members were invited to nominate experts in FEM's Task Forces, and in particular the Digital Task Force, which deals with issues of strategic importance for our companies.

The General Assembly adopted the financial results 2022, as well as a small amendment to FEM Operating Rules.

Finally, the Board met for the first time in its new composition, in particular Alf-Gunnar Karlgren (Kalmar, Sweden) and Frank Van Dijk (Vanderlande, PGIS) joining for the first time.



FEM CONGRESS 2024 TO TAKE PLACE IN ISTANBUL



Further to the kind invitation from FEM's Turkish member ISDER, the 2024 Congress will take place in Istanbul. After the very successful 2010 edition, it will be the second time that FEM meets in Turkey. The exact dates will be announced in the coming months.

We look forward to welcoming the European materials handling industry in the beautiful Istanbul.

Task Forces Activities

MACHINERY DIRECTIVE

Further to the last interinstitutional trilogue meeting on the draft Machinery Regulation, the European Parliament and the Council reached a [provisional agreement](#) on 15 December. The co-legislators agreed on sensitive political issues such as the content of Article 5 on the process for amending Annex I and Annex I itself (former Annex IV). In short, a compromise was found on splitting the annex in two parts: A (subject to mandatory third-party conformity assessment) and B (allowing the manufacturer's self-assessment/module A). FEM's advocacy efforts on this file have paid off, given that the final outcome reflects the majority of comments and requests of the material handling industry. In other words:

- Only six machinery categories are now included in part A and mobile elevating work platforms have been shifted to part B.
- The high-risk terminology has been completely removed and replaced by 'categories of machinery and related products listed in Annex I'.
- There is a decoupling from the Artificial Intelligence Act, as any reference to AI systems has been deleted.
- The Commission's empowerment to adopt common specifications (when the standardisation request is rejected, or the standards are not delivered) is limited to specific conditions.
- Some definitions and requirements (e.g. safety function, supervisory function) have been adapted in line with FEM's input.
- Digital documentation (instructions, declaration of conformity, declaration of incorporation) is permitted, except for limited cases when a paper format is still required (upon request of the user, at the time of purchase, or for products intended to be used by non-professionals, in which case the basic safety information must be delivered on paper).
- The application and transition period has been set at 42 months.

The provisional deal has already been endorsed by the Council's Committee of Permanent Representatives on 25 January, and by the Internal Market Committee in the European Parliament, on 2 March. The plenary vote is foreseen to take place on 17 April, to be followed by the formal signature of the legal act in June 2023. The final machinery regulation is expected to be published in the EU Official Journal in July. The estimated date of application of the new Machinery Regulation is January 2027.

The FEM TF Machinery is currently working on a comprehensive analysis of the agreed text, to identify which articles/topics need to be clarified in a future update of the machinery guidelines. To finalise this analysis, the next TF meeting is scheduled for 5 April.

OUTDOOR NOISE

The work of the Noise Task Force will resume once the European Commission publishes the last draft of the Outdoor Noise Directive Delegated Act, which should tentatively take place in the first half of April. Once the last draft will be released, a public consultation will also be opened, in which FEM will timely participate.

The publication of the Delegated Act is expected for the early summer 2023, and the entry into force for mid-2023, as per the latest information received by the European Commission. Additionally, in Q4 2023, an expert group meeting will be organised by the European Commission.

DIGITALISATION

Artificial Intelligence Act

The Secretariat is currently closely monitoring developments on the [European Commission proposal on the Artificial Intelligence Act](#) and awaiting the final batches of Compromise Amendments (CAMs) from IMCO-LIBE, the joint responsible committees on the AI Act in the European Parliament. After the responsible committees reach an agreement, notably on the definition of 'AI system', the vote in plenary will follow. For now, that is expected in the spring 2023. That would mean that trilogues will start shortly after, given that the European Council already reached its [general approach on the AI Act](#) in December 2022.

Because of a shift in priorities of the Task Force, it was decided that FEM will not engage in active advocacy during trilogues but will attempt to influence the final Regulation through Orgalim.

Data Act

The Task Force advocacy activities on the European Commission's [proposal for a Data Act](#) continue.

On 14 March, the European Parliament adopted in plenary their [agreed text on the Data Act](#), paving the way for interinstitutional negotiations.

Main changes to the Commission proposal:

- **Scope:** according to the Parliament text, the data under the scope refers to the non-personal data the IoT products have collected. This excludes any data resulting from the processing and inferring of algorithms

- **Business-to-business (B2B):** the Parliament text specifies that companies cannot use the data they receive to develop a competing product, but they can employ it to inform an alternative service. Additionally, in B2B, the data holder can request compensation. If the receiving company is a small or medium enterprise, the compensation cannot exceed the technical costs of making the data available
- **Trade secrets:** a few caveats were introduced on trade secrets, such as data undermining the safety of a product. Also, data recipients will be liable for the damages caused to the data holder for any unlawful disclosure
- **International data transfers:** the European Parliament amended the prevention of cloud services from sharing non-personal data with the authorities of a third country, to require cloud providers to locate their data infrastructure in the EU
- **Unfair contractual terms:** the European Parliament extended the prohibition of unfair contractual terms to all companies, as opposed to the Commission proposal, which only protected small and medium enterprises.

While in the European Council their general approach is close to its finalisation, the FEM Digitisation Task Force started to work on a 4-column table, to support FEM advocacy during trilogues, identifying whether FEM supports the Commission, Parliament or Council positions on the aspects raised by FEM in their position paper and suggestions for amendments on the Data Act.

The Task Force aims at finalising the document and send it for outreach by the second half of April.

Cyber Resilience Act

After analysing the European Commission proposal for a [Cyber Resilience Act](#) (CRA), FEM identified that the upcoming Regulation will impact all autonomously guided and telematic materials handling equipment. Because of this, the CRA became one of the main digital policies priorities for the Digitisation Task Force.

On 3 March, FEM finalised a [position paper](#), which outlines the major FEM recommendations on the CRA:

- Redefine the scope of the Cyber Resilience Act based on actual risk and define the cyber risk of a product depending on its direct or indirect connection to a network
- Align the reporting obligations of manufacturers with the timeframes set out in the revised Network Information and Security Directive (NIS 2)
- Extend the transition period to at least 48 months
- Rephrase essential cybersecurity requirements in accordance with the New Legislative Framework

- Provide a more detailed list of the products that classify as ‘critical’
- Avoid overlaps with other EU legislation, particularly the Radio Equipment Directive Delegated Act and the revised Network and Information Security Directive.

The position paper was sent for outreach in the European Parliament and the Council, and the Secretariat so far held a meeting with the advisor of one of the shadow rapporteurs on this file in the Parliament, to advocate for the FEM position. The Secretariat is currently still trying to secure additional meetings with policymakers in the Parliament and Council.

Even though ITRE, the committee responsible in the Parliament, still did not publish its draft report, for the moment, the discussions in the Parliament seem to go in a favourable direction for FEM. In the Council, the Swedish Presidency published its first compromise proposal, which introduce a few clarifications on the text. Both the institutions are aiming at starting trilogues after the summer.

As a second step, the Task Force agreed on proceeding with the drafting of amendment proposals, which should be finalised by the second half of April.

BATTERIES

In the last months, the revision process of the Battery Directive – to become a Regulation – keeps FEM and its TF Battery busy.

As a reminder on 10 December 2020, the Commission published its proposal for a new [Batteries Regulation](#) and its [Annexes](#), which will replace and repeal the current [Batteries Directive](#) (2006/66/EC). The general aim of the proposed legislation is to strengthen batteries’ sustainability, performance, and safety throughout their full life cycle. It builds on the commitments from the EU Green Deal and, more specifically, the Strategic Action Plan on Batteries, the new Circular Economy Action Plan, the new Industrial Strategy for Europe, and the Sustainable and Smart Mobility Strategy.

The European Parliament voted on 10 March and the Council adopted a [general approach](#) on 17 March. On 9 December, the EU institutions reached a [provisional agreement](#) on the file. In a nutshell, the provisional agreement includes the following points:

- a carbon footprint declaration and label will be obligatory for EV batteries, LMT batteries and rechargeable industrial batteries with a capacity above 2kWh.
- batteries will carry labels and QR codes with information related to their capacity, performance, durability and chemical composition, as well as the “separate collection” symbol. LMT batteries, industrial batteries with a capacity above 2 kWh and EV batteries will also be required to have a “digital battery passport”.
- all economic operators placing batteries on the EU market, except for SMEs, will be required to develop and implement a so-called “due diligence policy”, consistent with international standards, to address the social and environmental risks.
- Collection targets are set at 45% by 2023, 63% by 2027, and 73% by 2030 for portable batteries, and 51% by 2028 and 61% by 2031 for LMT batteries.
- Minimum levels of recovered cobalt (16%), lead (85%), lithium (6%) and nickel (6%) from manufacturing and consumer waste must be reused in new batteries.
- All waste LMT, EV, SLI and industrial batteries must be collected free of charge for end-users, regardless of their nature, chemical composition, condition, brand, or origin.
- By 31 December 2030, the Commission will assess whether to phase out the use of non-rechargeable portable batteries for general use.

The Parliament and the Council will have to formally approve the agreement before it can come into force. The Parliament vote has been postponed until 12 June 2023.

FEM TF Battery analysed and discussed the text of the agreement, highlighting the unclear aspects which should be clarified by the Commission in future guidance. Moreover, the TF identified the key delegated and implementing acts that will need to be followed closely by the TF, namely : Art. 7 Carbon Footprint (especially, DAs on methodology for calculation and verification and on the format of the declaration, IA on performance classes); Art 8 Recycle content; Art.10 Performance & Durability; Art 13 Labelling (especially IA); Art 45 Due diligence (especially IA).

EU Legislative Issues

MARKET SURVEILLANCE/NEW LEGISLATIVE FRAMEWORK

On 15 November 2022, the European Commission published 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 Centre for Strategy & Evaluation Services - CSES) in May 2022.

Overall, 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 value. 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 digitalisation, circular economy concepts (including remanufacturing, substantial modification etc.), complex value chains, and other similar challenges.

As a result, the Commission concluded 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, a 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).

STANDARDISATION POLICY

The [Regulation \(EU\) 2022/2480](#) amending Regulation (EU) No 1025/2012 (targeted amendment of Article 10) was published on 19 December 2022 in the European Union Official Journal (L 323/1). As a reminder, the proposal for a targeted amendment of the Standardisation Regulation 1025/2012 was part of the package of initiatives within the Standardisation Strategy, as a core deliverable to improve the governance of the EU standardisation system. The 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 Regulation will apply as from 9 July 2023.

Publications and Events

FEM POSITION PAPER ON THE CYBER RESILIENCE ACT



FEM's latest position paper on the Cyber Resilience Act is out. This Act is a crucial step towards ensuring the cybersecurity of products with digital elements in the European Union and will impact all FEM equipment containing these digital elements.

As such, FEM calls on policymakers to take into account the interests of all the sectors that will be impacted by the upcoming Regulation and sets out 6 recommendations to ensure that the proposed measures will strengthen cyber resilience without impeding European innovation and competitiveness.

Full article and Position Paper  [HERE](#)

FEM JOINT INDUSTRY STATEMENT ON THE PROPOSAL FOR A DATA ACT

On 1 February 2023, FEM co-signed a joint industry statement on the European Commission legislative proposal for a Data Act. The statement warns against the negative impact of the Data Act as it stands. It calls on the European Parliament and Council to recognise the importance of data in contributing to the European economy by providing a regulatory framework that gives stability, clarity, and certainty.

Full article and Joint Statement 



Joint statement: The Data Act is a leap into the unknown

FEM AND #SINGLEMARKET30

On 15 February 2023, As Europe marked the 30th anniversary of the Single Market, FEM took part in Orgalim's campaign celebrating its achievements in strengthening the internal market and competitiveness.

Our President and Executive Vice-President Sales & Service at KION Group Industrial Trucks & Services EMEA, Christophe Lautray, and Ernesto Dominguez Porta, CEO of Toyota Material Handling Europe, shared their thoughts on the benefits they experience doing business in the internal market today and certainty.

[Read the full article on Orgalim's website](#) 



FEM CELEBRATING INTERNATIONAL WOMEN'S DAY

On 8 March, FEM, to celebrate International Women's Day as a special opportunity to shine the spotlight on women working in the materials handling industry, FEM shared the story of Eva Virtute, Advocacy & Product Sustainability Director at KION GROUP AG, as well as an active expert in FEM.

[The full interview is available](#) 

A graphic with a light blue background. On the left is a circular portrait of Eva Virtute. Below it, her name "EVA VIRTUTE" is written in teal, followed by her title "Advocacy & Product Sustainability Director at KION GROUP AG" in black. To the right of the portrait is a quote in black text, enclosed in teal quotation marks. The quote reads: "I'm really passionate about my job. I have the chance to learn about several topics and the privilege to contribute to the realisation of sustainability goals, which is so important nowadays. Moreover, I enjoy working in team, meeting colleagues from different countries and cultures, and enriching myself thanks to all these experiences. My dream and wish for the industry is an environment where there is no gender gap and where diversity and inclusion is not a task but a matter of fact."

THIS NEWSLETTER IS RESERVED

TO FEM MEMBERS

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