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STANDARDISATION MANDATE TO CEN RELATIVE TO CHILD RESISTANCE REQUIREMENTS FOR CIGARETTE LIGHTERS

I. Background

Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety¹ is aimed at ensuring that only safe products are placed on the EU market. To that end, it establishes a general safety requirement for consumer products, supported by a definition of “safe” product.

Article 4(1) of the Directive establishes the procedure for the drawing up of European safety standards for consumer products.

On 11 May 2006, the Commission adopted Decision 2006/502/EC, based on Article 13 of Directive 2001/95/EC (General Product Safety), requiring Member states to take measures to ensure that only child-resistant lighters are placed on the market and to prohibit the placing on the market of novelty lighters².

The Decision stipulates that presumption of conformity to be child resistant shall be given to lighters which conform to national standards transposing European Standard EN 13869: 2002, as far as the specifications other than those in paragraphs 3.1, 3.4 and 5.2.3 of the standard are concerned.

The adoption of this Decision is based on Article 13 of the GPSD, which means it is valid only for one year, with the possibility to be confirmed for additional periods, none of which shall exceed one year. The Commission adopted on 12 April 2007 Decision 2007/231/EC extending the validity of Decision 2006/502/EC by one year. However, prolonging the Decision indefinitely would go against the letter and the spirit of Article 13 and, therefore, the aim is to publish the reference of a revised EN 13869 in the Official Journal as soon as possible, thereby achieving a lasting solution regarding the child resistance of lighters.

¹ OJ L11, 15.1.2002, p.4.

² OJ L198, 20.7.2006 p.41

As a first step in this process, in accordance with Article 4(1) of the GPSD, on 23 April 2008, the Commission adopted Decision 2008/322/EC³, laying down the child resistance requirements to be met by European standards for lighters pursuant to Directive 2001/95/EC of the European Parliament and of the Council.

A second step is this mandate to CEN to review and revise where appropriate EN 13869:2002.

Finally, the reference of the revised standard will be published in the Official Journal according to Article 4(2) of the GPSD. At that point EN 13869 becomes a harmonised standard under the GPSD and should be applied by industry and enforced by the Member States.

II. Considerations

Child panel testing

In the discussions leading up to the adoption of the Decision, it became clear that several Member States are reluctant to apply EN 13869 due to the fact that it relies on child panel testing to determine the child resistance of a lighter. Arguments against the use of children for testing purposes revolve around ethical principles (i.e. one should not use children for testing a dangerous product) and problems with the enforcement (i.e. to test whether a lighter on the market complies, Member State authorities would have to use child panel testing as well, making enforcement cumbersome and costly).

Nevertheless, such testing has been undertaken in the USA and for other products (e.g. child resistant medicine and chemicals packaging) without any indication of an adverse effect on the safety of the participating children. Even so, child panel testing is viewed by some with concern and it is therefore opportune to look for any equally effective but less onerous alternatives for verifying the child resistance of lighters.

Moreover, testing of lighters both by manufacturers and market surveillance authorities would be much facilitated if fairly straightforward technical tests would be available to verify compliance with the child resistance requirements. An example of such a parameter would be a minimum push down force for hard-piezo lighters, possibly combined with dimension criteria for the pusher.

A study was undertaken for the Commission in 2006 looking at technical parameters for child resistant lighters⁴, which provides useful background information in this context.

However, it has to be stressed that any alternative to child panel testing would have to be at least equivalent in effectiveness and reliability. In addition, one could envisage that it will not be possible to define technical parameters for all CR mechanisms in use, nor for new mechanisms that might be developed in the future. Hence, child panel testing may, in certain well-defined circumstances, be necessary to ensure the child resistance of a particular lighter.

³ OJ L 120, 7.05.2008 p.11

⁴ Consumer Safety Institute. Paediatric Biomechanics Study Child Resistant Lighters. August 2006.

Novelty lighters

Next to this, the application of the definition of novelty lighters in EN 13869:2002 has shown that it is not always possible to unequivocally identify those lighters that should be considered novelty lighters and those that should not. In practice, the definition leaves considerable room for interpretation which may be reduced by amending this element of the standard. The work on an inventory of novelty lighters that has been undertaken in the context of the joint market surveillance project by the Member States should be taken into account.

Secondly, the term 'novelty' lighter is causing problems, as it does not translate well in some of the official EU languages. Therefore, the use of an alternative term, such as for example 'child-appealing' lighter, should be explored.

As a result, the Commission considers it necessary to review and revise where necessary EN 13869:2002 taking into account the developments in the last 5 years and the fact that Decision 2006/502/EC will not be prolonged indefinitely. Such a revised standard should subsequently be referenced under the GPSD so that presumption of conformity with the general safety requirement can be given to all lighters complying with the standard.

III. Description of the mandated work

On the basis of Commission Decision 2008/322/EC laying down the child resistance requirements to be met by European standards for lighters pursuant to Directive 2001/95/EC of the European Parliament and of the Council, the Commission invites CEN to review and as appropriate revise EN 13869:2002 with the overall objective to draft a standard that would address current concerns regarding the use of a child panel for child resistance testing and allow for the standard to be referenced under the GPSD. Specifically, CEN is asked to:

- Investigate and establish less onerous, alternative ways for verifying the child resistance of lighters, thereby significantly reducing or removing the need for child panel testing, taking into account the fact that any alternatives need to be at least as effective and reliable;
- Maintain the existing child panel test in the standard, to allow for an alternative way of establishing child resistance, for example in situations where technical parameters cannot be established;
- Amend the definition of novelty lighters to significantly reduce or remove the room for interpretation of the definition, without unduly narrowing the scope of the definition so as to capture all lighters whose design will in practice appeal to young children, taking into account the experience gained by the Member States with the implementation of Decision 2006/502/EC;
- Consider revising the term 'novelty' to avoid possible misunderstanding, also in translation;
- Revise the 'lighter' definition, in accordance with Commission Decision 2008/357/EC laying down the child resistance requirements to be met by European standards for lighters pursuant to Directive 2001/95/EC of the European Parliament and of the Council;

- Revise the definition of 'producer' taking into account the provisions of the GPSD;
- Review, and if necessary revise, the documentation requirements (chapter 6 and 7) in view of Decision 2006/502/EC, in particular articles 3 and 4 thereof, taking into account the experience gained by the Member States with the implementation of Decision 2006/502/EC;
- Assess the need for maintaining requirement 5.2.3.

IV. Execution of the mandate

CEN shall inform the Commission of the arrangements to be adopted for the execution of the work within three months of acceptance of this mandate.

The European standard shall be delivered within 36 months of acceptance of the mandate, at which time the text of the standard in the three working languages of CEN (DE, EN, FR) shall be available, as well as the correct titles in the other official European Union languages.

CEN shall develop the draft standards in close consultation with the European Commission.

In carrying out the mandate, appropriate co-ordination and liaison with relevant activities and organisations shall be established at international, national and regional level (CENELEC, IEC, ISO) to ensure coherence.

The European standards accepted shall be transposed into national standards and differing national standards shall be withdrawn from the catalogues of the national standards organisations in the Member States within six months of their adoption.

Acceptance by CEN of this mandate starts the standstill period referred to in Article 7 of the Directive 98/34/EEC of 22 June 1998 (Of N° L 204/37 of 21 July 1998)

The work following this mandate may be updated by common agreement, and with the appropriate consultation of the Standards and Technical Regulations Committee, if that proves to be necessary during the course of the work.

Bodies to be associated

As appropriate, CEN will invite the representative organisations of consumers' interests (ANEC), environmental protection (ECOS), workers (ETUI-REHS) and small and medium-size enterprises (NORMAPME) to take part in the standardisation work.