

■ The safety of work-equipment - Brussels 12./13.06.2003

- Legal opinion on

”International standards for the elimination of barriers to trade – an analysis of the agreements and of the discussion of standardisation policy”

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- for the

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■ KAN-Report 29 (2002)

Legal opinion on

”International standards for the elimination of barriers to trade – an analysis of the agreements and of the discussion of standardisation policy”

- WTO-Agreement on Technical Barriers to Trade (TBT), signed 1995 by the EU
- Principle: to base technical regulations upon the relevant international standards

■ Role of standards for OH&S (95)

- Article 95
(safety of working-equipment to be placed on the market)
- full harmonisation (no national deviation)
 - by Essential Safety and Health Requirements
 - on a high level of protection

⇒ European Standards

(= "de facto" harmonising documents) are adequate means:

mandates, consultants, listing in the OJEC, safeguard clauses

■ Role of standards for OH&S (137)

- Article 137
(duties of employers and employees)
- only partial harmonisation with minimum requirements
⇒ European Standards (= "de facto" harmonising documents: no national deviation allowed for CEN/CENELEC-members) **normally inadequate** means

no mandates

no consultants

no listing in the OJEC

no safeguard clauses

■ Fears of German OH&S stakeholders towards TBT

- Fact:
Parallel Voting according to Vienna/Dresden-Agreements
 - WTO/TBT:
technical regulations based upon international standards
- ⇒ Fear N°1:
Standards will compete with provisions by the Member States
- ⇒ Fear N°2:
European level of protection may not be maintained

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■ What areas concerning OH&S are affected?

- Council Resolution 94/800/EC

 Single Market – Products

OH&S ?

Environment ?

Consumer Protection ?

■ Does it apply to in-plant working and OH&S MS?

- Processes and production methods only when **product characteristics are directly affected**
- OH&S (management) standards do **not** fall within the scope of the TBT Agreement
- no automatic mechanism for adoption initiated even for product standards
- wide scope of political responsibility which is not affected by the TBT Agreement

■ Binding International Health & Safety Requirements ? !

Proposals by

- TABD
(Transatlantic Business Dialogue)
- OECD
(Organisation for Economic Co-operation and Development)
- UN/ECE
(United Nations Economic Commission for Europe)

■ UN/ECE

- model for good regulatory practice
- almost all relevant elements of the New Approach
- not global – based on initiatives of single countries for certain product sectors
- Common Regulatory Objectives (CROs)
- need for **further** international standards

■ TABD

- global level
- essential requirements on a sector-by-sector basis
- binding orientation framework for standardisation conditions not clear
- reference of technical regulations to existing international standards

■ Recommendations of KAN

- **clear distinction of TBT-relevant standards**, and:
 - ★ legally binding essential requirements
 - ★ defined standardisation mandates
 - ★ a certain level of quality assurance
 - ★ official recognition of standards, which meet all necessary conditions
 - ⊞ safeguard clauses
 - ⊕ co-ordination of the activities of certification bodies
 - ✧ co-ordination of the activities of market-surveillance bodies